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MARSIGLIO OF PADUA AND WILLIAM OF OCKAM

II.

THE statement of Pope Clement, that Marsiglio derived his heresies from Ockam, is still further weakened if we consider the attitude of the scholars of that time and of later days with respect to the works of the two. It was to Marsiglio, rather than to Ockam, that the enemies of the popes and the friends of reform looked for support. This has been denied by several writers of our own day, who think that it was the fate of Marsiglio to be absolutely forgotten. According to Poole,<sup>1</sup>—and Lechler,<sup>2</sup> Tschakert<sup>3</sup> and Kneer<sup>4</sup> are of the same opinion,—“Ockam may justly be claimed as a precursor of the German reformers of the sixteenth century, but Marsiglio exercised no direct influence on the movement of thought.” Riezler regards them both as nearly equal in prominence as precursors of the Reformation. Silbernagl, on the other hand, distinctly denies that Ockam is a precursor of the Reformation in the same sense as is Marsiglio, who, in his *Defensor Pacis*, “takes the same grounds as Luther.”<sup>5</sup> Which of these opinions is right we shall discover by studying the histories of the works of Marsiglio and Ockam, subsequent to their publication.

If we could believe Villani,<sup>6</sup> John XXII. condemned Marsiglio in a bull dated July 13, 1324. From a letter of the bishop of Passau, of September 6, 1326, we know that John had already condemned Marsiglio as a heretic.<sup>7</sup> On April 3, 1327, John condemned

<sup>1</sup> *Illustrations of Medieval Thought*, p. 277.

<sup>2</sup> *Johann Wiclif*, Leipzig, 1873, pp. 125-127.

<sup>3</sup> *Peter von Ailli*, Gotha, 1877, p. 3.

<sup>4</sup> *Entstehung d. konzil. Theorie in Röm. Quartalschr.*, 1893, Supp. I. 56, 57.

<sup>5</sup> *O. c.*, p. 427.

<sup>6</sup> *Historia Univ.*, in Muratori, *Scriptores*, XIII. 560.

<sup>7</sup> Reinkens, *Urkunden d. Vatikan. Archivs*, No. 287, in the *Abh. d. III. Cl. Ak. d. Wiss.*, XVII. Bd., 1. Abth., 1883.

the *Defensor Pacis* and its author<sup>1</sup> on the strength of "the opinions of many learned men" who had examined the book and found heresies in it. On April 9<sup>2</sup> he cited Marsiglio to a council of the faithful to answer for his erroneous ideas. Under the date of October 23<sup>3</sup> of the same year John issued two new bulls. In one Louis of Bavaria is condemned for his opinions on apostolical poverty, for giving support to Marsiglio, and for allowing him to teach and publish his heretical doctrines. The second is directed against Marsiglio in particular. John recites that in a synod of his cardinals, archbishops, bishops and other prelates, together with several masters in theology and professors of law, it had been decided to condemn five heretical articles which several Catholic men had taken from the *Defensor Pacis* and brought to him.

The five articles thus selected are put down and refuted in order : 1. Christ paid the tribute money to Cæsar, not voluntarily, but because He was forced by necessity. 2. Peter had no more authority than the other apostles and was not their chief; Christ, therefore, created no head of the Church and made no one His vicar. 3. All the temporalities of the Church are under the emperor, and he can institute, depose and punish the pope. 4. All priests, whether pope, archbishops, bishops, or simple priests, are by the institution of Christ equal in authority. If one has more authority than another it is because the emperor has given it to him. That which the emperor has given he can revoke and take away. 5. The whole Church is unable to punish any man by temporal punishment unless the emperor permits it.<sup>4</sup> For these heresies and for their refusal to come to a general council to which John had summoned them, Marsiglio and his friend Jandum are condemned as heretics, all persons are prohibited from helping them, and the faithful are enjoined to seize them so that they may be punished.

Towards the end of 1327 Louis of Bavaria, inspired by the advanced ideas<sup>5</sup> of Marsiglio, undertook his disastrous expedition to Rome, accompanied by Marsiglio and Jandum. On January 28, 1328,<sup>6</sup> John sent letters to his legate at Rome commanding him to seize the two heretics. This was followed by another to the same effect dated February 27, 1328,<sup>7</sup> and addressed to the same legate

<sup>1</sup> Martène et Durand, II. 683.

<sup>2</sup> Ibid., and *supra*, p. 411, note 4.

<sup>3</sup> Ibid., p. 704.

<sup>4</sup> Turrecremata, *Summa de Eccles.*, ed. 1489, lib. 4, pt. 2, c. 37, numbers these articles so as to get seven. He takes them from the *Extravagantes* of John XXII. They, however, no longer form a part of the *Corpus Juris Canonici*; cf. ed. Friedberg.

<sup>5</sup> Riezler, 42 ff.

<sup>6</sup> Martène et Durand, II. 716.

<sup>7</sup> Ibid., 723, 727.

and to other archbishops and bishops of Italy. John issued another process against them dated March 30.<sup>1</sup> Others to the same purpose came forth April 15 and May 21.<sup>2</sup> On May 20 Franciscus of Venice, one of Marsiglio's students at Paris, was examined before the Inquisition court sitting at Avignon, to find out if he or others had helped Marsiglio to write his heretical book.<sup>3</sup>

About 1328 Peter Palude, patriarch of Jerusalem, brought forth his *De Causa immediata ecclesiasticæ Potestatis* in favor of John, and directed against the heresies of Marsiglio.<sup>4</sup> Louis's decrees deposing John, April 18 and December 12, 1328,<sup>5</sup> were probably founded on the *Defensor*.<sup>6</sup> From that time on Marsiglio and his book figured in the numerous bulls issued by John against Louis and his followers. We thus find him in those of May 5 and June 15, 1329,<sup>7</sup> February 15,<sup>8</sup> July 22,<sup>9</sup> July 31 and September 6, 1330,<sup>10</sup> and January 8 and 21, 1331.<sup>11</sup>

In a letter addressed to the cities of Spires and Worms, dated October 29, 1329, the Emperor Louis made use of the *Defensor Pacis* by incorporating the ideas which Marsiglio had set forth in his introduction.<sup>12</sup> On May 30, 1329, John addressed a letter to the chancellor of the University of Paris, calling his attention to the publication of the process against Marsiglio and Jandum. The faculty of theology responded by condemning the *Defensor Pacis*, and reciting four of the five errors condemned by John in his bull of October 23, 1327.<sup>13</sup> Between 1330 and 1332 Alvarez Pelagius, a strong supporter of John XXII., in writing his *Summa de Planctu Ecclesiæ*,<sup>14</sup> undertook to refute the heretical opinions of Marsiglio. He confined himself, however, to the mere refutation of two<sup>15</sup> of the heresies which had been selected by John. He also wrote another work against Marsiglio, of which all traces have been lost.<sup>16</sup> In

<sup>1</sup> Ibid., 736.

<sup>2</sup> *Vat. Akten* and Reinkens, o. c., No. 431.

<sup>3</sup> Baluze, l. c.

<sup>4</sup> Paris, 1506, folio 48.

<sup>5</sup> Baluze, o. c., III. 240, 310.

<sup>6</sup> Preger, o. c., p. 12.

<sup>7</sup> Martène et Durand, II. 776, 777.

<sup>8</sup> Raynaldus, o. c., *sub anno* 1330, § XL.

<sup>9</sup> Ibid., § XXIX.

<sup>10</sup> Martène et Durand, II. 800.

<sup>11</sup> Ibid., 816. Raynaldus, 1331, § II.

<sup>12</sup> Müller, II. Beilage 16, p. 373. Cf., however, Ritter's reviews mentioned above.

<sup>13</sup> Bukeus, o. c., p. 216.

<sup>14</sup> Ed. Ulm, 1474. Riezler, 283, 301, gives the date of this work as 1331. Pelagius in his preface says he began it in 1330 and finished it in 1332.

<sup>15</sup> Fols. 92 vo. and 93, of Venice ed., 1560.

<sup>16</sup> Raynaldus, 1327, § 36. This is probably the same work which is elsewhere referred to as *Apologia contra Marsilium et Occamum*.

1331 Gerald Odo, the newly elected general of the Minorite Order, thought it proper to say something against Marsiglio and his ideas.<sup>1</sup> About the end of 1334 Louis opened negotiations with Cardinal Napoleon Orsini for the calling of a general council, but the cardinal refused to aid him unless he sent Marsiglio of Padua away from his court.<sup>2</sup> Alexander of St. Elpidio in his book *De Jurisdictione Imperii et Authoritate summi Pontificis*, written before the death of John, renewed the attack against the errors of Marsiglio.<sup>3</sup>

John XXII. died December 4, 1334, without being able to lay his hands on the arch-heretic. But his successor, Benedict XII., kept up the fight and succeeded in bringing Louis to submission. Louis sent a letter of such purport to Benedict October 28, 1336.<sup>4</sup> After condemning Cesena, Ockam and others, he goes on to condemn also Marsiglio and Jandum and to offer his excuses for allowing them to stay at his court. He says he thought they were good churchmen and he kept them by him because they knew a great deal about the law of the empire. If their opinions were against the faith and government of the Church he was unwilling to accept them. He wanted to use only such of their opinions as were for the defense of the empire. He never did believe their errors and he only kept them by him that he might reduce them to the will of the Church. He acknowledges that he was wrong in allowing them to preach against Pope John, but he had only allowed them to do it in order to give good churchmen an opportunity to refute their errors. Even in so doing he admits that he was wrong. John, he thinks, rightly condemned the five errors committed by these men and, like a good Christian, he joins in condemning them. He promises to destroy such heretics as the Church shall point out and especially Marsiglio and Jandum. This servile submission by Louis foretold the non-fulfilment of its promises. The negotiations, however, were continued. To Benedict's old demand that Marsiglio and the Minorites should be reduced to obedience to the Church, Louis replied in 1338 by proposing an assembly of laymen and clergymen before which Marsiglio and the Minorites should justify their opinions or undergo punishment. Benedict rejected this suggestion as well as the proposal that the men should be allowed a safe-conduct.<sup>5</sup> Later he changed his mind and agreed to allow them a safe-conduct, but Louis did not respond and the negotiations were broken off.<sup>6</sup>

<sup>1</sup> Raynaldus, 1331, § 10.

<sup>2</sup> Höfler, o. c., p. 11 ff.

<sup>3</sup> Natalis Alexander, *Historia eccl.*, Paris, 1672-86, VIII., pp. 40, 88.

<sup>4</sup> *Vatikan. Akten*, No. 1841.

<sup>5</sup> Raynaldus, 1339, § 6.

<sup>6</sup> Riezler, 312 ff. Preger, 24. Riezler's review of Preger, *Hist. Ztschr.*, XL. 326. Rohrmann, *Die Procuratorien Ludwig's des Baiern*, 1882.



Benedict issued an order for the further examination of the *Defensor Pacis*. This was carried out by Clement VI., with the result that more than two hundred and fifty heretical articles were extracted from it.<sup>1</sup> In writing his *De Juribus Regni et Imperii* about 1339<sup>2</sup> Leopold of Bebenburg makes no mention of the *Defensor*, though Riezler thinks he made use of it.<sup>3</sup> In a speech of April 10, 1343,<sup>4</sup> Clement says that "we have hardly ever read a worse heretic than this Marsiglio"—a remark which, when connected with the extraction of the two hundred and fifty articles, shows that the book had actually come into papal hands.<sup>5</sup>

On July 11, 1343,<sup>6</sup> Clement, in speaking against Louis in a consistory, again refers to Marsiglio as dead. Since that arch-heretic is gone, Clement turns his attention to Ockam. A few months later, on September 18,<sup>7</sup> Louis handed in a second submission, couched in almost the same words as that sent to Benedict, and expressing deep regret for the deeds which he had committed in connection with Marsiglio, Jandum and others. In connection with this submission Louis sent his messengers to Avignon in January, 1344. To them it was said that their master had erred in four great things, one of which was that he had received errors from Marsiglio, Jandum and Cesena and had believed them.<sup>8</sup>

How effective these numerous attacks by the popes on Marsiglio and his book were in keeping down the number of copies in circulation cannot be estimated. It certainly made his work widely known. Riezler<sup>9</sup> thinks Ockam must have used it in writing his *Dialogus*, though no mention is made of it. Conrad of Megenberg in his *Oeconomica*, written between 1352 and 1362, attacked the opinion of Marsiglio that it belonged to the emperor to choose the pope,<sup>10</sup> and Thomas of Strassburg, writing before 1353, attacked the opinions expressed in the *Defensor*, that it was no sin to associate with an excommunicated person and that excommunication itself was only an invention of the clergy.<sup>11</sup>

At some time before 1363 the *Defensor Pacis* was translated into French. At an inquisition held on the book somewhat later at Paris, a certain Richard Barbe said that he had heard that he who wrote the book had translated it. He had made further inquiries,

<sup>1</sup> Clement's speech of April 10, 1343, in Höfler, o. c., p. 20.

<sup>2</sup> Riezler, pp. 190, 302, puts the limits as 1338-1340.

<sup>3</sup> Ibid., p. 189.

<sup>4</sup> Höfler, l. c.

<sup>5</sup> Raynaldus, 1327, § 37.

<sup>6</sup> Höfler, l. c.

<sup>7</sup> *Vat. Akten*, No. 2167.

<sup>8</sup> Höfler, o. c., p. 23.

<sup>9</sup> P. 265.

<sup>10</sup> Ibid., 290.

<sup>11</sup> N. Paulus, *Thomas v. Strassburg u. Ludolph v. Sachsen*, in the *Historisches Jahrbuch* for 1892, XIII. 10.

but had been able to find out nothing.<sup>1</sup> That the author translated it is not improbable. We find Raoul de Presles and Philip de Mézières doing the same with works which they had written. This translation may have been Jandum's share in Marsiglio's work. In 1363 an anonymous writer made an Italian translation from the French.<sup>2</sup>

Shortly after this Gregory XI., who had come to the throne in 1370, got word of the French translation, which caused him much anxiety. The translator was thought to be some one connected with the faculty of theology of the University of Paris. That faculty in order to clear itself of any such suspicion appointed a commission for the inquisition of its members. This process,<sup>3</sup> which began September 1, 1375, continued from time to time until December 31 of the same year. Each member of the faculty after being put under oath was asked "if he had translated the book from the Latin into French; if he knew, had known, or had heard of any one who had translated it; and if he had any suspicion of anybody having translated the book." All returned negative answers. Richard Barbe replied as we have seen above. John of Dyodona said he had never heard of the book, and several other doctors and masters said they had heard from older doctors that Marsiglio and Jandum never were doctors or graduates of the faculty of theology. These overzealous denials, especially that by a man so prominent as Dyodona, raise the suspicion that the learned doctors knew more about the translation than they cared to admit. At any rate the inquisition came to a close without finding the translator, and he and the translation are as yet undiscovered. This process, like all of its kind, most likely made a great deal of noise, and was probably in part responsible for the great popularity and numerous editions of the very book which it was intended to suppress.

Attacks on the papacy of the same sort as were made by the *Defensor Pacis* were not wanting even during the time of Gregory XI. Among these was the famous *Somnium Viridarii* or *Songe du Vergier*, written by Philip de Mézières, or Raoul de Presles, about 1376 or 1377,<sup>4</sup> and borrowed largely from the *Dialogus* of Ockam and the

<sup>1</sup> Denifle, o. c., III. 225. *Histoire littéraire de la France*, XXIV. 344. Victor Leclerc makes several statements here not warranted by the sources.

<sup>2</sup> *Catalog. Codicum Ital. Bibl. Med. Laur.* (at Florence) by A. G. Bandini, 1778, p. 227, Cod. 26. On the history of the translation see F. Scaduto, *Stato e Chiesa*, Florence, 1882, p. 112.

<sup>3</sup> Denifle, III. 221-227. E. Richer, in his *Historia Academiae Parisiensis*, Vol. III., MS. Latin. 9945, Bibl. Nat. Paris, mentions this process in speaking of Marsiglio, but adds nothing new.

<sup>4</sup> Karl Müller, *Zeitschr. für Kirchenrecht*, XIV. 134-205 (1877). Latin text in Goldast, o. c., I. 58-229. French text in *Traitez des Droits de l'Eglise Gallicane*, II., p. 1, ff.

*Defensor Pacis* of Marsiglio. Meantime Wiclif had begun to attack the authority of the popes. Between 1370 and 1377 he wrote his tract *De Civili Dominio*. Its dangerous doctrines soon attracted the attention of Gregory XI., who, on May 22, 1377,<sup>1</sup> sent a bull to the University of Oxford commanding that the heresies of Wiclif should not be taught there, and accusing him of borrowing his errors, *mutatis mutandis*, from Marsiglio and Jandun, whose heretical opinions had been condemned by John XXII. The accusation is repeated in bulls of the same date, addressed to the archbishop of Canterbury, the bishop of London and King Richard II., and nineteen of Wiclif's heretical opinions, which had given rise to Gregory's assertion that Wiclif had borrowed them from Marsiglio and Jandun, were selected from his *De Civili Dominio*<sup>2</sup> and sent to England.

In 1378 the Great Schism broke out. Attempts to put an end to this serious division in the Church gave rise to the conciliar movement, and the writers in favor of this movement naturally turned to the literature which had gone before. In this no work seems to have been used so much as the *Defensor Pacis*. On Gerson its influence cannot be traced distinctly. Ailli nowhere mentions it directly, though he used the *Songe du Vergier*, which was compiled in part from the *Defensor*.<sup>3</sup> Dietrich von Niem in writing his *De Modis uniendi ac reformandi Ecclesiam* (c. 1410) and his *Avisamenta pulcherrima de Unione et Reformatione Membrorum et Capitis fienda* (c. 1414), also called *De Necessitate Reformationis*,<sup>4</sup> borrowed many passages from it. Nicolaus von Cusa in his *De Concordantia Catholica*, written between 1431 and 1434, mentioned Marsiglio and was evidently much influenced by his book, though he was anxious to have it understood that he was not a follower of his.<sup>5</sup> In 1443 Matthias Döring in writing the famous *Confutatio Primatus Papæ* borrowed numerous passages bodily from the *Defensor Pacis*.<sup>6</sup>

In spite of the zealous advocates of the power of a general council, the conciliar movement failed to attain its end and the Great Schism was only brought to a close by Nicholas V. about the mid-

<sup>1</sup> Walsingham, o. c., I. 345 ff.

<sup>2</sup> Ed. R. L. Poole, London, 1888. Cf. also *Fasciculi Zizaniorum*, ed. W. W. Shirley, London, 1858, pp. 245-256.

<sup>3</sup> Tschackert, o. c., pp. 42-43 and App.

<sup>4</sup> H. Finke, *Forschungen u. Quellen zur Gesch. des Konstanzer Konzils*, Paderborn, 1889, pp. 132-149. Also the *Römische Quartalschrift für Christ. Alterth. u. f. Kirchengesch.*, VII. 226.

<sup>5</sup> *Opera*, Basle, 1565, pp. 683-825. Also F. A. Scharpff, *Der Cardinal u. Bischof t N. von Cusa*, Tübingen, 1871, pp. 6-10, 33, 76-77.

<sup>6</sup> On the authorship of this work see P. Albert, o. c., and Holzer, *Mit. d. Inst. f. ös. Geschichtsforschung*, XV. 152. A detailed comparison of this work with the *Defensor* is made by Albert.

dle of the fifteenth century. The impossibility of reforming the Church from within gave rise to the reformation from without.

In the Reformation as in the conciliar movement the *Defensor Pacis* played an important part. In 1512 Jacques Almain made use of it in writing his *Expositio de suprema Potestate ecclesiastica et laica* and his *De Auctoritate Ecclesiæ*.<sup>1</sup> Luther was accused by a contemporary, Albert Pighio,<sup>2</sup> of having taken a large number of his errors from it. In 1522 a German calling himself "Licentius Evangelus, priest,"<sup>3</sup> brought forth the first edition of the *Defensor Pacis*. His preface is a long tirade against the rich and against the maladministration of justice, and he rails against the papacy as the cause of these and other evils. In this respect it is a sort of abstract of the *Defensor* and the intention of the editor in bringing Marsiglio's book to light was evidently to put into the hands of reformers the best weapon that he could find against the Church. Notwithstanding his evident intention the editor finishes the work with the statement that he had edited the book with no other purpose than to "promote the commonweal and bring truth to light."<sup>4</sup>

This edition made the *Defensor* yet better known. Its influence on

<sup>1</sup> *Opera*, ed. 1518, Paris.

<sup>2</sup> O.c., p. 4 of preface and fol. 239 vo.

<sup>3</sup> Usually said to be Beatus Rhenanus, but A. Horawitz, in his thorough researches on the life and works of that reformer in *Sitzungsberichte der phil.-hist. Classe d. kaiserl. Akademie d. Wissenschaften*, LXX. 189 ff., LXXI. 643 ff., LXXII. 623, and in his *Briefwechsel d. Beatus Rhenanus*, Leipzig, 1886, makes no mention of it. It seems impossible, even though (according to Goldast, o.c., Diss. I.), Rhenanus's contemporary Lavater says so, that Rhenanus should have written such a violent preface. J. W. Blaufuss, in his *Beiträge zu seltenen Büchern*, II. 92, attributes the preface to Zwingli on untenable grounds. Stähelin in his *Huldreich Zwingli u. sein Reformationswerk*, 1884, does not mention it. Wolfgang Weissenberg in his preface to the *Antilogia Papæ*, published at Basle by Matthias Flacius Illyricus, in 1555, says that "Licentius" was Valentin Curio, the printer at Basle. This is supported by Ludwig Keller, *Die Reformation u. d. älteren Reformparteien*, Leipzig, 1885, pp. 327, 388. As Weissenberg merely used the name "vulgatum," this means published rather than edited. The book, however, does not even bear the press-mark of Curio; cf. Stockmeyer and Reber, *Beiträge z. Basler Buchdruckergesch.*, Basle, 1840, p. 154. The same "Licentius Evangelus" edited the *De Ordine docendi et discendi* of Baptista Guarini, published without mark; cf. C. G. Jöcher, *Allg. Gelehrt. Lexicon*, s. v. "Beatus Rhenanus." That the type used in this edition of 1522 resembles the type used by Curio in his other book (Keller, p. 379, n. 4), is no argument that Curio wrote the preface or even printed this edition. Keller thinks that the little verse preceding the text was written by Hans Denck (p. 379), though on what grounds does not clearly appear. That the writer of the preface was a German is clear from the context. Pighio, o.c., fol. 239, refers to the author as a "certain Lutheran." The identity of this "Licentius" thus remains uncertain.

<sup>4</sup> This edition in abbreviated Latin does not seem to be good. The editor makes no attempt to be critical. Cf. Denis, *Cat. Bibl. Palat. Vind.*, I., pt. II., p. 2057. Chapter VII. is joined with Chapter VI. in Book II. and the last chapter of Book III. is omitted. This has been printed by K. Müller, in *Götting. gelehrt. Anzeigen d. Königl. Gesell. d. Wissenschaften*, 1883, II. 923-925. There are also many mistakes; cf. Denis, I. c., and Riezler, p. 223, note.

the men of the times is undoubted, especially on the so-called "Brothers of Common Life."<sup>1</sup> Nor was this influence confined to Germany. In England, on the division between Henry VIII. and Rome, a certain William Marshall,<sup>2</sup> wishing to promote his interest at court and to advance the cause of the Reformation, translated, or had translated for him into English, this edition of "Licentius."<sup>3</sup> Marshall thought it was the best work against the authority of the popes,<sup>4</sup> and Cromwell himself was very favorably impressed, as he promised to lend twenty pounds towards the printing of it.<sup>5</sup> The translation was finished about April 1, 1533,<sup>6</sup> but did not appear in print until July 27, 1535. Four days later Dr. Thomas Starkey wrote to Pole advising him to read it.<sup>7</sup> Marshall sent several copies to the monks of the Charterhouse,<sup>8</sup> but their president prohibited them from reading it and they sent the copies back.<sup>9</sup> One monk, more zealous than his fellows, burned his copy.

When the publication of lists of prohibited books began, the works of Marsiglio naturally found a place there. The Emperor Charles V. in 1540, 1544 and 1546 issued edicts against the printing of heretical writings. It was left to the faculty of theology of the University of Louvain to decide which books were heretical and to publish lists of them. Such a list was made in 1546 and the works of Marsiglio of Padua figured among those fit to be "rooted out."<sup>10</sup> Henry II. issued edicts for France to the same effect in 1549 and 1551.<sup>11</sup> The lists were published by the faculty of theology of the

<sup>1</sup> Keller, o. c., pp. 379, 388. See, however, a review of Keller's book by Müller in the *Theolog. Stud. u. Kritiken* for 1886, p. 352.

<sup>2</sup> *Dict. Nat. Biog.*, Vol. 36, 1893. C. H. Timperley, *Encyc. of Lit. and Typog. Anecdote*, London, 1842, p. 259 ff. Ames, Dibdin, Herbert, *Typog. Antiq. of Gt. Brit.*, III. 416 ff.

<sup>3</sup> Three copies in Bodl. Library, Oxford. One copy in Brit. Museum. The translator has omitted Chapters 13, 14, 18 of Book I., Chapters 20, 21, 22 of Book II., many conclusions of Book III., and other parts throughout the book. The translator says that the parts omitted are not necessary for his purposes. The omission of Chapter 18 is interesting, as it is here that Marsiglio puts forward his theory of the responsibility of the executive to the people for his actions.

<sup>4</sup> *Letters and Papers of the Reign of Henry VIII.*, ed. James Gairdner, Rolls Series, XI., No. 1355.

<sup>5</sup> *Ibid.*, VII., No. 423.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*, Vol. VIII., No. 1156. Starkey was the king's chaplain. He wrote *An Exhortation to the People instructing them to Unity and Obedience*. Cf. Strype, *Eccles. Memorials of the Church of England*, Oxford, 1822, I., pt. II., p. 266.

<sup>8</sup> *Letters and Papers*, IX., No. 523.

<sup>9</sup> Yet the *Defensor Pacis* had not figured among the list of prohibited books published in England about 1529; cf. Foxe, *Acts and Monuments*, London, 1837-1841, IV. 667.

<sup>10</sup> *Catalogue des Livres reprouvés*, Louvain, 1546.

<sup>11</sup> Isambert, *Recueil des Anciens Loix Françaises*, Paris, 1828, XIII. 189.

University of Paris. In their list of 1556 we find under "ex libris Marsilii Patavini" the *Defensor Pacis* duly enrolled.<sup>1</sup> In the numerous indexes<sup>2</sup> "librorum prohibitorum" published at Rome before and after the Council of Trent the works of Marsiglio are to be found. In the second session of the Council of Trent rules to be followed in condemning books were formulated and an *Index Librorum prohibitorum* containing the *Defensor Pacis* was published in accordance therewith at Rome in 1558.

In 1538 Albert Pighio brought out his *Hierarchiæ Ecclesiasticæ Assertio*. In the *Epistola Nuncupatoria* he announces his intention of discussing the arguments on the ecclesiastical and imperial powers and of choosing as an antagonist Marsiglio of Padua. He chooses him because he is "the best representative of the opposition to ecclesiastical power" and because it was he who brought together "the strongest, the most numerous and the most ingenious arguments for the support of the imperial cause."<sup>3</sup> Pighio then devotes a considerable part of his work to the refutation of the ideas of Marsiglio as expressed in the *Defensor Pacis*.<sup>4</sup> In 1545 Max Müller, of Westendorff, made an abridged translation of the *Defensor Pacis*, calling it *Ain kurtzer Auszug des treffenlichen Wercks und Fridschirmbuches Marsilii von Padua*. He had made a complete translation, but owing to its length he omitted Book I., which deals with the state, and reduced to seven the forty-two conclusions of Book III. From these omissions we can see that his purpose was to use the book as a weapon against the Church and not as an exposition of the theory of the state.<sup>5</sup>

The name and work of Marsiglio remained ever fresh in the minds of the people during the Reformation. The Protestants, in their letter "super recusatione Concilii Tridentini" in 1562, referred to him as one among those who had written about the early abuses of the Church.<sup>6</sup> Charles IX., in a letter to Pius IV., also makes reference to him.

In 1592 Francis Gomar, the Calvinist and anti-Arminian, brought out a new edition of the *Defensor Pacis*, praising its author and recommending it to Henry IV., of France, as especially useful

<sup>1</sup> *Catalogue des Livres censurés par la Faculté de Théologie de Paris*.

<sup>2</sup> Cf. L. Vallée, *Bibliog. des Bibliogs.*, Paris, 1883. J. Petzholdt, *Bibliotheca bibliog.*, Leipzig, 1866, under "Catalogue," "Index," etc.

<sup>3</sup> O. c., p. 4.

<sup>4</sup> Ibid., folios 239-301.

<sup>5</sup> I have not seen this book. Cf. Graesse, *Trésor de Livres*, s. v. Marsilius, and Riezler, p. 194. It is dedicated to Ottheinrich, Count Palatine, and was published at Neuburg a. d. Donau, in folio.

<sup>6</sup> Goldast, I. Diss., see under "Ockam."



for showing the liberty and power of his kingdom against the popes.<sup>1</sup> In 1599 a new edition was published, but, excepting the addition of "Testimonia auctorum de Marsilio Patavino," it seems to be a reprint of the edition of Gomar.<sup>2</sup>

In 1612 Daniel Patterson, of Danzig, published another edition of the *Defensor*, calling it a work very useful and necessary for politicians and all students of letters, and prefacing it with a history of the struggles between the popes and the emperors, and the share of Marsiglio therein.<sup>3</sup> In 1613 Patterson had the same reprinted, not, however, under the title of the *Defensor Pacis*, but under that of *Legislator Romanus de Jurisdictione et Potestate, tam seculari, quam ecclesiastica*, as a general treatise on the priestly, military, agricultural and other orders of the state.<sup>4</sup> From these two editions by Patterson we see that the *Defensor* had ceased to be a mere weapon against the papacy, and had been taken up as a work on the state. Goldast, the great editor, in almost the same spirit incorporated it into his collection of texts on the ecclesiastical and imperial powers in 1614. It also appears in the reprints of this work in 1621 and 1668.<sup>5</sup>

In 1622 a new edition was published under the title: *Opus insigne Defensor Pacis*.<sup>6</sup> This was followed by another in the next year<sup>7</sup> entitled *Irenicum Politicum* and said to be a work necessary

<sup>1</sup> Frankfort. Like all subsequent editions, this is taken from the edition of 1522. Gomar, in his preface, says he intended to make a commentary on the work, but was prevented. He omits the preface of "Licentius Evangelus," but copies the marginal indexes of the edition of 1522, follows that edition in omitting the seventh chapter of Book II., gives a few more marginal notes and fills out the abbreviations.

<sup>2</sup> "Ex bibliopolio Comeliniano" (at Heidelberg, cf. Lelong, l. c.), called "Editio castigatio notisque et aliis auctor." With a few slight changes the preface of Gomar is reproduced. As authorities are given the bull of Gregory XI. to Richard II. of England, in 1378, selections from Zabarella's *Commentarius in Clementinas*, and from J. Papire Masson's *De Episcopis Urbis Romæ*. Bound with it are Marsiglio's *Tractatus de Translatione Imperii* and a "Constitutio" of Louis IV. on electors.

<sup>3</sup> This edition is taken directly from the 1522 edition, and not from that of Gomar. After his own preface, Patterson puts that of Licentius. In other respects he follows the edition of 1522 exactly, except that he omits the marginal indexes, numbers Chapter VIII. of Book II. as Chapter VII., and fills out the abbreviations. The edition is dedicated to the consuls and senators of the republic of Danzig.

<sup>4</sup> Frankfort. Exactly the same as the above, except as regards title-page and date.

<sup>5</sup> Melchior Goldast, *Monarchia S. Romani Imperii*, 3 vols., Hanover 1611, 1613, 1614. The editions of 1621 and 1668 are of Frankfort. The *Defensor* is in Volume III. of these editions, and in Vol. II. of the first edition. Goldast copies the 1522 edition, fills out the abbreviations, and drops the marginal indexes. He prints the preface of Licentius separately in Vol. I., pp. 647-653, leaves out the index and the dedicatory poem, but puts the little verse "Philalethes" and part of the conclusion of Licentius at the end.

<sup>6</sup> Frankfort. I have not seen this edition. Cf. Riezler, p. 194.

<sup>7</sup> Frankfort. Evidently a reprint of Patterson's edition, though the prefaces of Licentius and Patterson are left out.



and useful "in these times of sedition and discord." The publisher addresses the reader in a preface which is very similar in tone to that of Patterson's editions. In 1692 another and last edition of this famous work appeared at Frankfort.<sup>1</sup>

In turning to trace the history of Ockam's works on the ecclesiastical and imperial powers we are at once struck by the slight importance which was attached to them by his contemporaries and followers. The first certain date that we have concerning him is that of a bull of John XXII. addressed to the bishops of Ferrara and Bologna and dated December 1, 1323.<sup>2</sup> Here John makes inquiries in regard to a certain sermon which Ockam was said to have delivered at Bologna, and which was opposed to the pope's conception of apostolical poverty. If this was true Ockam was to be arrested and brought before the pope for examination. Shortly afterwards he seems to have been arrested and taken to Avignon, where he awaited trial for his heretical opinions. He was there for almost four years and seems to have been closely confined during seventeen weeks of this period.<sup>3</sup> On May 25, 1328, he managed to escape and in company with Cesena and others fled to Pisa, which was under the control of the officers of Louis of Bavaria, who was in Rome.<sup>4</sup> Three days later John sent a letter to all bishops and princes commanding them to seize Ockam for fleeing from his trial for heresy.<sup>5</sup> On June 6 of the same year the pope in a bull recited the story of their escape, excommunicated them and in particular said that Ockam had in dogmatic form uttered many heresies.<sup>6</sup> In a bull of June 20 he informed the archbishop of Milan and his suffragan bishops of the excommunication of Ockam and the others.<sup>7</sup> In the same year, or in 1329, he sent letters to various German princes commanding the arrest of the heretics.<sup>8</sup> On March 7, 1329, he sent letters to the same effect to the various archbishops of Germany.<sup>9</sup> The letter to the archbishop of Cologne was read publicly

<sup>1</sup> I have not seen this. Cf. Friedberg, o. c., p. 121.

<sup>2</sup> Wadding, *Annales Minorum*, VII. 7, and Raynaldus, 1323, § 62.

<sup>3</sup> Poole, *D. N. B.*, p. 357; Baluze, *Misc.*, III. 244; I have verified Müller's reading of "annis" and would say that Poole's doubts are unfounded.

<sup>4</sup> *Ib.*, and Denifle, o. c., II. 290. The words which Ockam said to Louis on meeting him later are first reported not by Trithemius, as Poole thinks, but by a chronicler who wrote about 1349. See Riezler's edition of *J. Turmair's Werke*, 1883, III. 587 ff.

<sup>5</sup> Reinkens, o. c., No. 433.

<sup>6</sup> Martène et Durand, o. c., II. 750. A bull of similar contents and of the same date was addressed to the archbishop of Palermo and his suffragan bishops. Cf. Ficker, *Urkunden zur Gesch. des Römerruges Kaiser Ludwig des Baiern*, n. 130, pp. 765 ff.

<sup>7</sup> *Vat. Akten*, No. 1044.

<sup>8</sup> *Ibid.*, No. 1105. Reinkens, o. c., No. 474, without authority gives the date as April 2, 1329.

<sup>9</sup> *Vat. Akten*, No. 1143.

June 30 in the cathedral.<sup>1</sup> On April 21, 1329, the pope published another bull similar to that of June 6, 1328.<sup>2</sup> About June 11, Gerald Odo, the Minorite General, condemned Ockam and others and prohibited the other members of the order from having anything to do with them.<sup>3</sup> By a bull of April 2, 1330, John commanded all ecclesiastical persons of Germany to lay hands on the culprits.<sup>4</sup> In a letter of July 31, of the same year, he increased his charges against Ockam, declaring that he had preached various heresies publicly and written books full of heretical opinions and errors.<sup>5</sup> For this reason John had assigned his writings to several doctors for examination and they had declared that they had found many heretical articles in them. To what "writings" John here has reference is difficult to say. Poole thinks it may refer to his *De Qualitate Propositionum*, said to have been written by Ockam during his confinement at Avignon and to have been afterwards incorporated in his *Dialogus*, but Müller is probably right in thinking it refers to his earlier theological and philosophical works.<sup>6</sup>

On January 4, 1331, the pope issued another bull prohibiting anyone from assisting Cesena, Ockam and others and accusing them of asserting that Christ and his disciples had no property of their own, or in common, but merely a simple usufruct. The accused were further said to be guilty of holding the error for which Marsiglio had already been condemned, "that the emperor can depose the pope." For these and other reasons John summoned them to a general council of the faithful to be held on May 10. This bull and summons were to be affixed to the doors of the church at Avignon, and whether the heretics appeared or not they were to be proceeded against.<sup>7</sup> In the same year (1331) Geraldus, the general of the Minorites, opposed the errors of those heretics, which he summed up as follows :

1. The emperor may depose the pope. 2. The people and clergy of Rome may do the same. 3. That which was done in Rome by Louis of Bavaria against John XXII. was done legally. 4. Laws made by that pope, even if he is canonically elected, and makes them with the consent of the cardinals, are heretical. 5. To obey him is heretical.<sup>8</sup>

<sup>1</sup> Ibid., 1178.

<sup>2</sup> Bzovius, *Annal. Eccl.*, 1329, § 7.

<sup>3</sup> Ib., 1328, § 7, and 1331, § 2.

<sup>4</sup> *Vat. Akten*, No. 1288.

<sup>5</sup> Martène et Durand, II. 800.

<sup>6</sup> Wadding, o. c., VII. 82. *Dict. Nat. Biog.*, p. 358. *Allg. Deut. Biog.*, XXIV. 123.

<sup>7</sup> Martène et Durand, II. 828.

<sup>8</sup> Raynaldus, o. c., 1331, § 15.

When Louis made his offers<sup>1</sup> of submission to Benedict XII. in 1336 he used nearly the same terms of reproach against Ockam and Cesena that he had used towards Marsiglio. Louis, as we saw, changed his mind, and two years later sought the assistance of Ockam in drawing up an appeal from the pope to a general council.<sup>2</sup> About this same time Louis requested Ockam to write his work on ecclesiastical and imperial power, which was afterwards called the *Octo Quaestiones*.<sup>3</sup> On July 11, 1343, Clement VI., the successor of Benedict, made the speech against Louis and Ockam which we have seen above. In a letter of May 20, 1346,<sup>4</sup> to the masters and scholars of the University of Paris, Clement prohibited them from the study of the doctrines of several recent philosophers, among whom Ockam was no doubt included.

Ockam died in 1349 or shortly after, but before his death he took some steps towards reconciliation with Clement VI. In letters of November 29, 1347, and June 8, 1349, Clement made this reconciliation dependent on several conditions.<sup>5</sup> Ockam was to promise to believe as the Holy Catholic Church believed, was to declare heretical the statement that the emperor could select, create and depose the pope, to obey the present pope and his successors, to renounce the heretical opinions of Louis of Bavaria and Michael of Cesena, and to promise to give no help to the enemies of the Church. These articles were not hard to comply with, but Ockam rejected them at first and was cited to appear before the papal court.<sup>6</sup> It is uncertain whether he ever agreed to them or not. Since in his *De Electione Caroli IV.*, written in 1348, he had already rejected almost the same demands, it seems hardly probable that he would have now accepted them. Minorites<sup>7</sup> naturally say that he did agree to them and that he died a good Christian, but Raynaldus<sup>8</sup> denies it. His name at least ceases to appear in the bulls of the popes.

Apart from mention in the papal bulls, Ockam and his anti-papal works attracted very little attention. The authors who wrote in favor of the popes give him only incidental mention as one among

<sup>1</sup> *Vat. Akten*, No. 1841.

<sup>2</sup> It is to be noticed that here, and in the Diets of Rhense and Frankfort, where the influence of Ockam was felt, the emperor is put below the pope. Riezler, pp. 96, 105. Müller, II. 80-81. For Ockam's moderation Thomasius, in his *Historia Contentionis inter Imperium et Sacerdotium*, 1722, p. 107, had the greatest contempt, terming Ockam an "adulator, homo ambidexter, neutralista, timidus, . . . . pessimum genus hominum ad maximas turbas in Republica excitandas," etc.

<sup>3</sup> Goldast, o. c., II. 391. "Illum autem dominum . . . . porrexit."

<sup>4</sup> Denifle, II., p. 287.

<sup>5</sup> Raynaldus, 1349, § 16. Müller, II. 253. Höfler, 30.

<sup>6</sup> Raynaldus, 1349, § 17.

<sup>7</sup> Wadding, o. c., VIII. 13 ff.

<sup>8</sup> O. c., 1349, §§ 16, 17. Bulaeus, o. c., IV. 317. Müller, II. 253.

many sharing the opinions of Cesena and others. As early as 1314 certain nominalistic doctrines had been condemned at Oxford.<sup>1</sup> By statutes of September 25, 1339,<sup>2</sup> and December 29, 1340,<sup>3</sup> the University of Paris prohibited the teaching of his philosophical doctrines, but said nothing of his religious and political teachings. So Ockam's influence lived by means of his works on philosophy rather than by his works on Church and state.<sup>4</sup> It was thus that Nicolas of Ulricuria was condemned at Paris in 1346 for the philosophical ideas which he had borrowed from the great nominalist.<sup>5</sup> About 1334 Jacob of Furno, cardinal-priest of St. Prisca, made a reply to the heretical opinions of Ockam, Cesena, Ekkehardt and others, which had been condemned by John XXII.<sup>6</sup> About 1343 Louis used the *Dialogus* to convince Albert of Austria that Clement's process against him, Louis, was of no value.<sup>7</sup> In 1348 the general chapter of the Augustinian order prohibited the reading of Ockam's works under pain of excommunication.<sup>8</sup> In 1354 Conrad of Megenberg in his tract against Ockam's *De Electione Caroli IV.* devoted himself to overthrowing Ockam's statements that the emperor could install or depose the pope and that the person chosen for king by the electors of Germany was emperor without the approval of the pope.<sup>9</sup>

Use of Ockam's works was shown in 1376 or 1377, when the author of the *Songe du Vergier* borrowed largely from the first and second part of his *Dialogus*. Lechler<sup>10</sup> says that Wiclif was influenced by Ockam, though no cases of direct borrowing can be found. In the conciliar movement Ockam was largely consulted for his philosophical ideas. It was thus that Gerson<sup>11</sup> and Ailli<sup>12</sup> used him, and Ailli even borrowed his words and ideas on the general council of the Church.<sup>13</sup> In addition Ailli made an *Abbreviatio* of the *Dialogus*.<sup>14</sup> Gelnhäusen, Biel and Langenstein are said to have bor-

<sup>1</sup> *Munimenta Acad.*, p. 100, Rolls Series.

<sup>2</sup> Denifle, II. 485.

<sup>3</sup> *Ibid.*, p. 505.

<sup>4</sup> *Ibid.*, p. 590.

<sup>5</sup> *Ibid.*, pp. 576, 587, 590, 720.

<sup>6</sup> *Ibid.*, p. 322, and *Archiv. f. Litter. u. Kirchengesch.*, II. 638. The errors for which John condemned Ekkehardt were purely doctrinal and not political.

<sup>7</sup> Böhmer, *Fontes*, I. 447.

<sup>8</sup> N. Paulus, o. c., p. 6.

<sup>9</sup> Höfler, o. c., pp. 29-31. Megenberg's so-called *Tractatus pro Romana Ecclesia et Pontifice Johanne XXII. contra Wilhelmum Occam* is probably the same as the above. Cf. Lorenz, II. 359.

<sup>10</sup> O. c., I. 479.

<sup>11</sup> Schwab, *Johannes Gerson*, p. 291, and Riezler, p. 297.

<sup>12</sup> Tschackert, o. c., pp. 303 ff.

<sup>13</sup> *Ib.*, pp. 43, 44.

<sup>14</sup> Paris, Bib. Nat. MS. Lat. 14,579, fols. 88-101.

rowed Ockam's ideas on church government.<sup>1</sup> In 1473 Louis XI. condemned the nominalistic doctrines of Ockam and others.<sup>2</sup>

Henry of Zoemerren, professor at Louvain and deacon of Antwerp, at the instance of Cardinal Bessarion, made at Vienna an *Epitoma primae partis Dialogi de Hæreticis*, which was published in 1481.<sup>3</sup> In a dedication to the above cardinal, Zoemerren stated his intention to be to present a good work on heretics, and he seems to have labored under the impression that Ockam was on the side of the popes. In 1476<sup>4</sup> the first edition of the *Dialogus* appeared, part second bearing the title of *Tractatus de Dogmatibus Johannis XXII. Papæ*. The next complete edition of three parts was published in 1494.<sup>5</sup> Jodocus Badius, called Ascensius, the printer and poet, dedicated the work to the celebrated historian and theologian, Trithemius. As we see from this dedication and a poem by Badius, the *Dialogus* was brought to light by him and his father-in-law, Trechsel, not with any intention of having it used as a weapon against the papacy, but merely to promote the cause of literature and learning. In the next year the same men brought out the *Opus nonaginta Dierum* with a *Summaria seu Epitomata* of its contents.<sup>6</sup> The *Opus*, as we know from a note by Ockam, was to form the sixth part of the *Dialogus*. In 1496 Trechsel seems to have published a reprint of the *Opus*,<sup>7</sup> having in the previous year brought out the *Compendium Errorum Johannis XXII. Papæ*.<sup>8</sup> In 1496 he also edited the *Octo Quæstiones*, for which Badius wrote a preface dedicating the work to Alexander of Beneventum, of the order of Celestines.<sup>9</sup> This preface, like that to the *Dialogus*, shows no intention of editing the book for use against the ecclesiastical authority. In 1498 Trechsel published the *Dialogus* again, but made no changes in the preface.<sup>10</sup>

About 1512 Jacques Almain, theologian and professor in the College of Navarre at Paris, supported the theories of Ockam in a book which he entitled *Expositio de suprema Potestate ecclesiastica et laica circa Quæstionum Decisiones Magistri Guillelmi de Ockam super*

<sup>1</sup> Wenck, *Konrad v. Gelnhausen in the Hist. Ztschr.*, 1896, LXXVI. 13 ff.

<sup>2</sup> Bulaeus, o. c., V. 678, 706. Baluze, *Misc.*, II. 293.

<sup>3</sup> Louvain. Zoemerren objects to Ockam's numerous repetitions. Graesse, *Trésor de Livres*, is confused respecting this edition.

<sup>4</sup> Paris, Cæsar et Stoll. Called *Dialogorum libri septem adversus Hæreticos*. Cf. Hain, *Repert. Bibliog.*, Copinger's Supplement, No. 11,937.

<sup>5</sup> Lyons.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid., cf. Hain, *sub* Ockam. The dates of the editions given by Goldast are impossible.

<sup>8</sup> Lyons. This did not appear with the *Opus*, as Hain, No. 11,935, would have us think, but separately.

<sup>9</sup> Lyons.

<sup>10</sup> Ibid.; cf. Hain, No. 11,939.

*Potestate summi Pontificis*. In a second work, *De Auctoritate Ecclesiæ*, written in the same year, he again makes use of Ockam's ideas on Church and state.<sup>1</sup>

In the Reformation Ockam's influence was felt. He was the only schoolman whose works Luther had on his shelves, and Luther was undoubtedly much influenced by his views on the Last Supper.<sup>2</sup> It was not these views of Ockam's, however, which met with disapproval from the Church, but rather his theories on the ecclesiastical and imperial powers. It was for these that his books written against John XXII. figured alongside of those of Marsiglio in the lists of condemned books and in the letters of Charles IX. and the Protestants which were mentioned above.

In 1546 the Englishman John Bekinsaw, in writing his *De supremo et absoluto Regis Imperio*, made use of Ockam's *Octo Quæstiones*. In 1598 Marquardus Freher published Ockam's tract on divorce along with that of Marsiglio. His *Dialogus, Compendium Errorum, Opus nonaginta Dierum, Octo Quæstiones* and the *Tractatus* on divorce found place in the three editions of Goldast's great collection. In 1600 Henry Canisius wrote a refutation of Ockam's and Marsiglio's tracts on divorce.<sup>3</sup>

From the two historical narratives thus presented, though necessarily incomplete, we may derive some estimate of the influence of the works of Ockam and of Marsiglio on their contemporaries and the men who came after them. We have seen that the popes and their supporters were in far greater fear of Marsiglio than of Ockam. It was Marsiglio whom they turned to refute. It was he who, as a certain cardinal thought, was the stumbling-block in the way of peace between the Emperor Louis and the popes. Ockam was also feared, but in far less degree. His theories attracted far less attention from the popes and their literary supporters. The errors of which he was accused were shared by a large number of men. They are never referred to as the errors of Ockam alone, but are always spoken of as those of "Cesena, Ockam, Bonagratia, Thalheim and others." Even as such they do not seem to have been strikingly original; one of them, at least, is exactly the same as an error of Marsiglio, which had been condemned before these men came into prominence.

Of Marsiglio's strong influence on the Emperor Louis there is no doubt. It was he who formed the chief support of Louis's

<sup>1</sup>*Opera Omnia*, Paris, 1518. Biographers who state that Almain wrote against Ockam are mistaken.

<sup>2</sup>J. W. Rettberg, *Ockam und Luther*, in *Theolog. Studien und Kritiken*, 1839, Vol. 12, pt. I., pp. 69-136.

<sup>3</sup>*Refutatio Trium Tractatum*, Ingolstadt.

expedition to Rome, and it was only after the failure of that expedition that the more moderate counsels of Ockam and others prevailed. Not less strong than his influence on his contemporaries was Marsiglio's influence on the men who followed him. This is evidenced by the inquisitions held on his book, and by the several translations, numerous editions and frequent use of it.<sup>1</sup> Of Ockam's works we have found no translations, fewer editions and fewer cases of borrowing. If, then, Ockam was and has been better known than Marsiglio it has been because of his philosophical rather than his political works. In this respect he may be compared with Dante, whose *De Monarchia* became well known more because it was written by the great poet than from any great value it had as a work on political theory.

Both the works of Ockam and those of Marsiglio failed to do that which Wiclif's works did—they failed to reach the masses. It is exceedingly doubtful whether the democratic movements under Van Artevelde, Rienzi and Étienne Marcel had any such connection with the theories of Ockam and Marsiglio as had the Peasant's Revolt with those of Wiclif. It is just as doubtful whether the anti-clerical movement in the German cities in the second half of the fourteenth century had any inspiration from controversial writers like Marsiglio and Ockam, who wrote in the first half.<sup>2</sup> It was in the learned world that the influence of these two men was felt. It was here that Ockam's philosophical doctrines took hold, and it was here that Marsiglio's "system of the ecclesiastical power and its relations to the temporal . . . served as a starting point for all subsequent treatises on the ecclesiastical hierarchy."<sup>3</sup>

Marsiglio may have borrowed his theories of the state from Aristotle, but his theories of the relations between Church and state are original with himself. He did not borrow them from Ockam; the evidence against this is too strong and the only statement for it too weak. It is Marsiglio's originality and the history of his famous work which have served in our own day to make him an international celebrity possessing an interest not only "for the Germans, the Italians and the French," as Riezler says,<sup>4</sup> but also for the English.

JAMES SULLIVAN.

<sup>1</sup> In the controversies over the powers of the Church and the state, which took place in the sixteenth and seventeenth centuries, and which centered about the names of Belarmin and Barclay, the works of Marsiglio and of Ockam were referred to very frequently. Cf. Rocaberti, *Bibliotheca Maxima Pontificia*, Rome, 1695, 21 vols.

<sup>2</sup> Seidenberger in his *Die kirchenpolitische Litteratur unter dem Kaiser Ludwig dem Bayern und die Zunftkämpfe vornehmlich in Mainz in the Westdeutsche Zeitschrift für Gesch. u. Kunst.*, VIII. 101, and Bezold, *Volkssouveränität in the Hist. Ztschr.* XXXVI. 349 (1876) are inclined to overestimate the influence of medieval theories.

<sup>3</sup> Schwab, *Johannes Gerson*, Würzburg, 1858, p. 30.

<sup>4</sup> Review of Labanca's *Marsilio da Padova* in *Hist. Zeitschr.*, XLIX. 123 (1882.)



## LUCERO THE INQUISITOR

IN January, 1481, the Inquisition was formally established by Ferdinand and Isabella in Seville, whence it was gradually extended until Castile was covered with an organization of tribunals. Although viewed with disfavor by a considerable portion of the population, even among the Old Christians who were not threatened by it, there was no overt resistance for a quarter of a century. It was impossible however that the arbitrary and virtually irresponsible power lodged with the inquisitors should not be frequently abused, although Ferdinand, as a rule, endeavored to hold it in check, and at last the excesses of Diego Rodriguez Lucero, the senior inquisitor of Córdoba, provoked an explosion which produced a salutary though not permanent effect. The story has been often told, but fresh documentary evidence in my hands throws some new light on details which perhaps may justify the endeavor to present it more completely than has hitherto been possible, especially as it affords some new light on a turning-point in Spanish history.

The first glimpse we have of Lucero is in the year 1500, when we find him already in position in Córdoba and in favor at the royal court. A letter of Ferdinand, July 27, to Andrés de Medina, receiver of confiscations there, orders the payment to him of 20,000 maravedis as an *ayuda de costa*, or gratuity over and above his salary, to reimburse him for his expenses in travelling to Granada and Malaga and other places, for the jurisdiction of the tribunal of Córdoba extended at that time over the recently conquered kingdom of Granada.<sup>1</sup> This is followed by another letter of December 11, cordially thanking Lucero for the ample details contained in a recent despatch from him relating how he was every day discovering new heretics; he is urged to spare no effort for their punishment, especially of those who have relapsed, and to report at once everything that he does.<sup>2</sup> He scarce needed this stimulus, for the

<sup>1</sup> This and the following incidents are derived from the letter-books of Ferdinand on the affairs of the Inquisition, preserved in the Archives of Simancas, Consejo de la Inquisition, Libros 1 and 2. Unfortunately in the series there is a gap covering the years of the Cordovan disturbances.

<sup>2</sup> Inquisidor Lucero. Yo e la serenissima Reyna mi muy cara y muy amada muger vimos vuestra letra y tenemos vos en servicio porque tan por extenso nos escrevis. Y pues vedes lo que de cada dia se descubre en ofensa de Dios nuestro Señor y contra nuestra santa fe Catolica, deveys con mucha diligencia solicitud y esfuerzo entender en la correccion de los malos y especialmente se deve luego fazer justicia de aquellos que dezis

letter shows how actively he was at work securing victims by the methods which will presently appear.

The next evidence of his zeal is a letter of February 12, 1501, from Ferdinand and Isabella to Manoel of Portugal, their son-in-law, informing him of the numerous heretics recently discovered at Córdoba and how the heresiarchs Alfonso Fernandez Herrera and Fernando de Córdoba with his wife Elvira had fled to Portugal, whither Lucero despatched his alguazil to bring them back without waiting to obtain royal letters. The alguazil seized them, but before the king would grant license for their extradition he desired to see the evidence against them. This Ferdinand and Isabella declare would be a grievous impediment to the Holy Office and disservice to God, so they affectionately entreat Manoel to surrender them, for the honor of God, and to protect from maltreatment his officials who had aided the alguazil.

We may not uncharitably assume that a portion of the royal favor was due to the pecuniary results of Lucero's activity. By this time the confiscations of the property of heretics, which at first had afforded substantial relief to the royal treasury, were seriously diminished and in many places were scarce defraying the expenses of the Inquisition; the rich *conversos*, or New Christians, had been largely burnt or stripped of their wealth under the guise of penance, and the harvest was much reduced. That Córdoba, on the contrary, was producing increased returns is evident from a letter of Ferdinand, March 13, 1501, to the receiver Andrés de Medina, saying that he learns that there is much to be done there and authorizing the appointment of two assistants at a salary of 10,000 maravedis. For this productiveness Lucero received his reward in another *ayuda de costa* of 25,000 maravedis, granted to him September 16 of the same year, and that the confiscations continued to grow is manifested by orders drawn January 12 and 13, 1503, on Luis de Sotomayor, who was then receiver, for five hundred thousand maravedis to defray inquisitorial salaries elsewhere. Under the same date we have a further example of Lucero's activity in the sudden arrest of five of the official public scriveners. As these were the depositories of the papers of their clients, the sequestration of all of their effects produced enormous trouble, to relieve which Ferdinand ordered all private documents to be separated and to be put in the hands of another scrivener, Luis de Mesa. This illustrates another of the profits of persecution, for when these delinquents should be burnt or

que son relapsos, porque las conciencias no esten ocupadas e se vean que se faze castigo de tan publicas ofensas, y de lo que fizieredes todavia nos escrevit. De Granada, XI de Dezembre de mil y quinientos años.—Yo el Rey.

pronounced incapable of holding office, there would be five vacancies to be eagerly contended for by those able to pay for them, or, if any of the prisoners were released after a trial lasting from one to three or four years, their business would have been absorbed by rivals.

Already, in 1501, we find evidence of antagonism springing up between the civil authorities of Córdoba and the Inquisition. A royal letter of September 6 relates that when the receiver of confiscations, accompanied by Diego de Barrio, scrivener of sequestrations, was engaged in holding a public auction of confiscated property, the alguazil-mayor of the city, Gonzalo de Mayorga, ordered the public crier, Juan Sanchez, who was crying the auction, to come with him in order to make certain proclamations. The scrivener interposed, refusing to let the crier go; hot words passed, in which Mayorga insulted the Inquisition and finally struck the scrivener with his wand of office, after which the alcalde-mayor of Córdoba, Diego Ruiz de Zarate, carried him off to prison. The inviolability of the Holy Office was vindicated by a royal sentence in which Mayorga, in addition to the arbitrary penance to be imposed on him by Lucero, was deprived of his office for life, was pronounced incapable of filling any public position whatever and was banished perpetually from Córdoba and its district, which he was to leave within eight days after notification. Zarate was more mercifully treated with only six months' suspension from office. This severity to secular officials of high rank was a warning which all men might heed that Lucero was not to be trifled with.

Secure in the favor of the sovereigns, Lucero grew bolder and extended his operations, arresting and condemning nobles and gentlemen and church dignitaries, for the vacated benefices of the latter were spoils as welcome as the estates of the former.<sup>1</sup> A great fear fell on the whole population, for no one was safe and no one could tell where the next blow would fall. It was easy by abuse and threats, or if necessary by torture, to procure from the

<sup>1</sup>An example of this, set forth in a memorial from Córdoba to Queen Juana, throws much light on the unwavering support of Lucero by Ferdinand. The archdeacon of Castro was a youth of seventeen, the son of an Old Christian mother and a *converso* hidalgo. His benefice was valued at 300,000 maravedis of revenue and he was a fair subject for spoliation. He was arrested, was forced to confess and abjure, and was penanced so as to render him incapable of holding preferment. The spoils were divided between Cardinal Bernardino Carvajal, for whom bulls had been obtained in advance, Lucero, the royal treasurer Morales, and Juan Roiz de Calcena, Ferdinand's secretary; Lucero getting a canonry in Seville and some benefices in Cuenca, while Calcena received property estimated at 4,000,000 maravedis.—Arch. de Simancas, Patronato Real, Inquisicion, Legajo único, fol. 46.

The latter figure probably represents Calcena's total profits from Lucero's operations. He was Ferdinand's secretary in matters concerning the Inquisition, and he had thus full opportunity of keeping his master in ignorance.

accused whatever evidence was necessary to convict others, for the testimony of accomplices was always a fruitful resource in the inquisitorial process, and the circle of denunciation widened throughout all ranks, not only of the New Christians, but of the Old. Apologists of the Inquisition, from that time to the present, have endeavored to extenuate this by the suggestion that those compromised endeavored to secure allies by inculcating in their confessions men of rank and influence and unblemished character,<sup>1</sup> but in view of Lucero's methods, such a concerted effort, improbable in itself, would have been wholly superfluous, and even if true would be sufficient condemnation of the procedure which rendered it practicable by secrecy, suppression of the names of witnesses and virtual denial of opportunities for defence.

Thus Lucero horrified the land by gathering evidence of a vast conspiracy ramifying throughout Spain for the purpose of subverting Christianity and substituting Judaism, which required the most comprehensive and pitiless measures for its overthrow. Nothing was too wild to serve as evidence of this widespread plot. Maidens who were known never to have left the paternal roof were described as traversing the land on this unholy errand, some of them as drunken Bacchantes and others transported on goats by the powers of hell.<sup>2</sup> All the superstitions of the vulgar were invoked to excite detestation, to arouse alarm and to justify murder and spoliation. A single instance which happens to have reached us will illustrate the savagery with which Lucero protected Christianity from this assault. A certain Bachiller Membreque was convicted as an apostate Judaizer who had disseminated his doctrines by preaching. Lists were gathered from witnesses of those who had attended his services, and these, to the number of a hundred and seven, were burnt alive at a single *auto de fe*. The prisons were filled with the unfortunates under accusation, as many as four hundred being thus incarcerated, and large numbers were carried to Toro, where at the time the inquisitor-general, Diego Deza, archbishop of Seville, resided with the Supreme Council of the Inquisition.

The reign of terror thus established was by no means confined to Córdoba. Its effects are energetically described by the Capitan Gonzalo de Avora in a letter, July 16, 1507, to the royal secretary Almazán. After premising that he had represented to Ferdinand, with that monarch's assent, that there were three things requisite for the good of the kingdom—to conduct the Inquisition righteously with-

<sup>1</sup> *Epistt. Petri Martyris Angler.*, Epist. 370. Zurita, *Hist. del Rey Don Hernando* Lib. VII., Cap. xxix. Rodrigo, *Hist. verdadera de la Inquisicion*, II. 238.

<sup>2</sup> *Epistt. P. Mart.*, Epist. 385.

out weakening it, to wage war with the Moors and to relieve the burdens of the people—he proceeds to contrast this with what had been done. “As for the Inquisition,” he says, “the method adopted was to place so much confidence in the archbishop of Seville and in Lucero and Juan de la Fuente that they were able to defame the whole kingdom and to destroy great part of it, without God or justice, slaying and robbing and violating maids and wives to the great dishonor of the Christian religion. . . . As for what concerns myself, I repeat what I have already written to you, that the damage and injury which the wicked officials of the Inquisition have wrought in my land are so many and so great that no reasonable person on learning them would not grieve.”<sup>1</sup> The bishop of Córdoba, Juan de Daza, and all the authorities of the city, ecclesiastical and secular, in a petition to the pope, did not hesitate to assert that the object of all this was the confiscations, which the inquisitors habitually embezzled;<sup>2</sup> but, if this was difficult under the system of accountability organized and supervised by Ferdinand, there was ample opportunity for extortion and for the violence and rapine described by Avora, when a horde of officials, clothed in virtual inviolability, was let loose upon a defenceless population.

It was probably in 1505, after the death of Isabella, November 26, 1504, that the people of Córdoba first ventured to raise their voice in appeal to the inquisitor-general Deza. He offered to send the archdeacon Torquemada to Córdoba, where, with representatives of the cathedral chapter and of the magistracy, an impartial investigation should be made, but when the city accepted this proposition he withdrew it. A deputation of church dignitaries was then sent who asked him to have Lucero arrested and prosecuted. He replied that if they would make out accusations in legal form he would act as would best tend to the service of God and if necessary would appoint judges to whom they could not object.<sup>3</sup> The remedy proposed was futile, for all the evidence was in Lucero's hands and Deza alone could order the necessary investigation. Apparently recognizing that it was useless to appeal to Ferdinand, their next recourse was to Isabella's daughter and successor, Queen Juana, then in Flanders with her husband Philip of Austria. Philip was delighted with an excuse to exercise an act of sovereignty in the kingdom which Ferdinand was governing in the name of his daughter, and, on September 30, 1505, a *cédula* in the name of Philip and Juana was addressed to Deza, reciting that they had heard that since

<sup>1</sup> *Boletín de la Real Academia de la Historia*, XVII. 447-451.

<sup>2</sup> *Archivo de la Catedral de Córdoba*, Cajon I., No. 304.

<sup>3</sup> Arch. de Simancas, Patronato Real, Inquisicion, Legajo único, fol. 46. Zurita, *Hist. del Rey Hernando*, Lib. VII., Cap. xxix.

the death of Isabella he and his inquisitors had seized many persons, some of whom had been executed and others were still imprisoned; the sovereigns were desirous to be present and to participate with their councils in these matters, and therefore, in the plenitude of royal power, they suspended the Inquisition until their approaching arrival in Castile, all papal letters and bulls notwithstanding, under penalty of banishment and seizure of temporalities for disobedience, protesting at the same time that it was not their intention to impede but rather to favor the Holy Office.<sup>1</sup> Although a circular letter to all the grandees announced this royal determination and commanded them to enforce it, it was received with complete indifference and no attempt at obeying it was made. The friends of the prisoners, finding themselves baffled in this, took the necessary steps to recuse Deza as judge and to interject an appeal to the Holy See, transferring for the moment the struggle to Rome, where the agents of Ferdinand and Philip contended with each other for the favor of Julius II., but the politic pontiff held aloof, declaring that he must reserve his decision until Ferdinand and Philip should have met.<sup>2</sup>

Undisturbed by this rising storm Lucero, about this time, saw in Isabella's death the opportunity of striking at a higher quarry than he had hitherto ventured to aim at. The Jeronimite Hernando de Talavera had won her affectionate veneration as her confessor, and on the conquest of Granada, in 1492, she had made him archbishop of the province established in the new acquisition. He had a Jewish strain in his blood, as was the case with so many Spanish families; in his eightieth year, he was revered as the pattern and exemplar of all Christian virtues, and he devoted himself unsparingly to the welfare of his flock, spending his revenues in charity and seeking by precept and example to win over to the faith his Moorish subjects—a task in which he might have succeeded had not the imperious Ximenes visited Granada and by his arbitrary methods provoked an uprising and created an impassable chasm between the races. Yet Talavera was not without enemies, for he had been the active agent in the reclamation by Ferdinand and Isabella, in 1480, of royal revenues to the amount of thirty millions of maravedis alienated by Henry IV. to purchase the submission of rebellious nobles, and though a quarter of a century had passed it is asserted that the vengeful spirit thus aroused was still eager to work his ruin.<sup>3</sup> Whatever may have been Lucero's motive, the methods of the Inquisition afforded abun-

<sup>1</sup>*Coleccion de Documentos para la Hist. de España*, VIII. 336, 337.

<sup>2</sup>Arch. de Simancas, Gracia y Justicia, Inquisicion, Legajo 621, fol. 198. Gachard *Voyages des Souverains des Pays-bas*, I. 548.

<sup>3</sup>Clemencin, *Elogio de la Reina Isabel*, pp. 144-5 (Madrid, 1821). Pedraza, *Historia Ecclesiastica de Granada*, P. IV., Cap. XXXI. (Granada, 1638).



dant means for the accomplishment of his object. He selected a woman whom he had tortured on the charge of being a Jewish prophetess and maintaining a synagogue in her house. He threatened her with further torture unless she should testify to what she had seen in the archbishop's palace, and, on her replying that she did not know, he instructed her that an assembly was held there, divided into three classes. In the first were the archbishop with the bishops of Almería, Jaen and others; in the second the dean (Talavera's nephew) with the provisor of Granada, the treasurer, the alcalde and many others, whose names were duly recorded by the promotor fiscal; in the third the prophetesses, the sister and nieces of the archbishop, Doña Maria de Peñalosa and others. They agreed to traverse the kingdom, preaching and prophesying the advent of Elias and of the Messiah, in concert with the prophets who were at Toledo, in the house of Fernan Alvarez, where they were crowned with golden crowns.<sup>1</sup> All of this was duly sworn to by the witness as dictated to her by the fiscal and it served as the basis for the prosecution of Talavera and his family, doubtless supported by ample corroborative testimony, readily obtained in the same manner. That there was some further political intrigue involved in this is probable from the occurrence of the name of the bishop of Jaen as an accomplice. He was Alfonso Suarez de Fuentelsaz, a former colleague of Deza as inquisitor-general and at this time president of the royal council. He escaped prosecution, but under inquisitorial methods there was no one who could consider himself safe.

Impenetrable secrecy, to which every one concerned was sworn under the heavy penalties of impeding the Inquisition, was one of the most cherished principles of its proceedings, but Lucero probably desired to prepare the public mind for the impending blow and whispers respecting it began to circulate. Peter Martyr of Anghiera, who was attached to the royal court, wrote on January 3, 1506, to the Count of Tendilla, governor of Granada, that Lucero, by means of witnesses under torture, had succeeded in imputing Judaism to the archbishop and his whole family and household; as there is no one more holy than Talavera he finds it difficult to believe that any one could be found to fabricate such an accusation against him.<sup>2</sup> The blow followed promptly. Talavera's sister, her son Francisco Herrera, dean of Granada, her daughters and the archbishop's servants were arrested and we can easily conceive the methods by which even his kindred were compelled to give testimony incriminating him.<sup>3</sup> Before he could be arrested and prosecuted, however,

<sup>1</sup> Archivo de la Catedral de Córdoba, Cajon J, No. 297.

<sup>2</sup> *Epist. P. Mart. Angl.*, Epist. 295.

<sup>3</sup> Correspondence of Francisco de Rojas (*Boletín*, XXVIII. 448). Ferdinand



the authorization of the Holy See was requisite, for, by a decree of Boniface VIII., the Inquisition had no direct jurisdiction over bishops, and Torquemada had vainly endeavored to get this limitation on his powers set aside. Ferdinand's intervention was necessary for this and after some delay he consented, for the inquisitor-general Deza had much influence with him, having been royal confessor and then tutor to the heir apparent, Prince Juan, at whose untimely death, October 7, 1497, he was at the bedside.<sup>1</sup> Ferdinand yielded, the inculpatory evidence of Talavera's family was sent to Rome, the ambassador, Francisco de Rojas, procured the papal commission for the archbishop's trial and forwarded it, June 13, 1506.<sup>2</sup>

Before it was despatched, however, Ferdinand's policy had changed with the arrival in Spain of his daughter Juana, the new queen of Castile, and her husband, Philip of Austria. Eager to gain the favor of the new sovereigns, most of the nobles were flocking to them, and with them the *conversos* or New Christians, who hoped to secure a modification in the rigor of the Inquisition. They had been aroused by the sufferings of their brethren in Córdoba, whose cause was their own, and they were becoming an element not to be disregarded in the political situation; they had already secured a hearing in the Roman curia, always ready to welcome appellants with money, and to sacrifice them after payment received; they had obtained from Julius II. commissions transferring from the Inquisition jurisdiction over certain cases—commissions which Ferdinand repeatedly asked the pope to withdraw, doubtless with success, as they do not appear in the course of events; they had even approached Ferdinand himself while in Valladolid with an offer of 100,000 ducats if he would suspend the Inquisition until after the

writes, June 9, 1506, to his ambassador Rojas, "Quanto á lo del Arzobispo de Granada, para con vos, lo que del se dice, confessiones son de sus mismas hermanas e parientes e criados e servidores."

<sup>1</sup> Davila, *Theatro Ecclesiastico, Iglesia de Salamanca*, p. 128 (Salamanca, 1618). Deza was not a mere cruel bigot, but was enlightened according to the measure of the times. He had written a Commentary on the Sentences and other books and has claims to respect as the patron of Columbus, befriending and encouraging him when disheartened by the incredulity of the court. Irving's *Life and Voyages of Columbus*, Book II., Chap. 3, 4; Book XVIII., Chap. 3.

<sup>2</sup> Dom Clemencin, *Elogio de la Reina Isabel*, Illust. XVIII., prints a noble and touching letter of reproof from Talavera to Ferdinand, dated January 23, 1507. He had had the direction of royal consciences too long to entertain any awe of royal personages. Spiritually he felt himself the king's superior and his perfectly frank simplicity of character led him to manifest this without disguise, while rebuking him in a spirit of the most genuine fatherly kindness.

Llorente, *Historia crítica de la Inquisición*, X. 184, prints an earlier appeal from Talavera to Ferdinand for his kindred and servants. From this it appears that the arrest of the officials of his church was made in the most offensive manner, in his presence and that of the people assembled on a public occasion.

arrival of Juana and Philip. This offer, he says in a letter of June 9, 1506, to Francisco de Rojas, he spurned, but we may perhaps doubt his disinterestedness when he adds that, as Philip has disembarked and is unfamiliar with Spanish affairs, he had secretly ordered Deza to suspend the operations of all the Inquisitions. As for the archbishop of Granada, he adds, as it would greatly scandalize the new converts of Granada if they thought there were errors of faith in him whom they regarded as so good a Christian, he had concluded to let the matter rest for the present, and would subsequently send instructions.<sup>1</sup> This dispatch of course reached Rojas too late to prevent the issuing of the commission to try Talavera, but it explains why the commission was suppressed when it arrived. Deza denied that he ever received it; it disappeared, and Talavera, in his letter to Ferdinand of January 23, 1507, manifests much anxiety to know what had become of it, evidently fearing that it might be opportunely found when wanted, as subsequently proved to be the case.

By the agreement of Villafañila, June 20, 1506, Ferdinand bound himself to abandon Castile to Philip and Juana; he departed for Aragon and busied himself in preparations to visit Naples, for which he set sail September 4. Philip assumed the government and disembarassed himself of his wife Juana by shutting her up as unfit to share in the cares of government. He was amenable to the golden arguments of the conversos, and doubtless he had not forgotten the contempt with which his order of the previous year to suspend the Inquisition had been treated. His position towards it had become antagonistic and he was in no haste to revive its suspended functions. Ferdinand's secretary Almazán writes to Rojas, July 1, that the king and the grandees have imprisoned Juana and no one is allowed to see her; he has in vain sought to get some prelates to carry letters from her to her father, but no one ventures to do so; the grandees have done this to partition among themselves the royal power, the conversos to liberate themselves from the Inquisition, which is now extinct.<sup>2</sup>

The people of Córdoba were not remiss in taking advantage of the situation. They sent a powerful appeal to Philip and Juana in which they stated that their previous complaints had been intercepted through Deza's influence, and they accused Lucero of the most arbitrary iniquities. Among his other methods of obtaining testimony they said was the device of keeping in the Inquisition certain Jews of both sexes whose function it was to teach his prisoners Jewish prayers and ceremonies in order that they might be able to testify correctly

<sup>1</sup> Correspondence of Fr. de Rojas (*Boletín*, XXVIII. 444, 448).

<sup>2</sup> *Ibid.*, p. 452.

against those whom he desired to convict.<sup>1</sup> They asked that all the inquisitorial officials at Córdoba and Toro be removed and the whole affair be committed to the bishop of Leon. Philip referred the matter to Garcilasso de la Vega, the *comendador mayor*, and to Andrés del Burgo, ambassador of Maximilian I., two laymen, to the great scandal of all ecclesiastics.<sup>2</sup> The conversos were triumphant and the Inquisition succumbed completely. Its supreme council, including Deza himself, hastened to disclaim responsibility for Lucero's misdeeds in a letter addressed to the chapter of Córdoba in which it said that the accusations against him had seemed incredible, for even highwaymen spared the lives of the victims whom they robbed, but here not only the property, but the lives, of the unfortunates were taken and the honor of their descendants to the tenth generation. But after hearing the narrative of the Master of Toro there can no longer be doubt and to tolerate it would be to approve it. The chapter is therefore urged to continue to prevent these iniquities and their majesties will be asked to apply a remedy and to punish their authors.<sup>3</sup> The remedy applied was to compel Deza to subdelegate irrevocably to Diego Ramirez de Guzman, bishop of Catania, power to supersede Lucero and to revise his acts, which was confirmed by a papal brief placing in Guzman's hands all the records and prisoners in Córdoba, Toro and Valladolid.<sup>4</sup> Lucero endeavored to anticipate this by summarily burning his prisoners to get them out of the way, but after the *auto* was announced there came an order from the sovereigns which fortunately prevented the execution of his purpose.<sup>5</sup>

The relief of the oppressed seemed assured, but the situation was radically changed by the sudden death of Philip, September 25, 1506, for although Juana continued to be nominally treated as queen she exercised no authority. Deza promptly revoked Guzman's commission, took possession of the prisoners at Toro and sent the archdeacon of Torquemada to Córdoba to do the same, but Guzman's representative, Francisco de Osorio, refused to obey. The people of Córdoba were in despair. It was in vain that they sent delegations to Deza and petitioned the queen to save them; some of their messengers were intercepted at Toledo by Deza's orders; others succeeded in reaching the court, but the queen refused

<sup>1</sup> Archivo de la Catedral de Córdoba, Cajon A, n. 5. Arch. de Simancas, Patronato Real, Inquisicion, Legajo único, fol. 46.

<sup>2</sup> Zurita, *Hist. del Rey Hernando*, Lib. VIII., Cap. xi.

<sup>3</sup> Archivo de la Catedral de Córdoba, Cajon I, n. 302. This letter is signed by Deza and the members of the council.

<sup>4</sup> Ibid., Cajon I, n. 300.

<sup>5</sup> Archivo de Simancas, Patronato Real, Inquisicion, Legajo único, fol. 46.

to act in this as in everything else. On October 16 the cathedral chapter assembled to consider the situation. The canons protested that they held the Inquisition in due respect, but in view of Lucero's assertion that they all, together with the greater part of the nobles and gentlemen of the city and other places, were apostates who had converted their houses into synagogues it was resolved that they should defend themselves. In fact some of the most prominent dignitaries of the church had already been arrested and had been treated by Lucero as Jewish dogs, the most deadly insult that could be offered to a Spaniard of the time.<sup>1</sup>

If the eclipse of the royal authority had enabled Deza to restore Lucero to power, it also offered temptation to resistance. The grandees of Castile were aiming to recover the independence which they had enjoyed prior to the iron rule of Ferdinand and Isabella, and the land was fast approaching a condition of anarchy. The two great nobles of Córdoba, the Count of Cabra, Lord of Baena, and the Marquis of Priego, Lord of Aguilar and nephew of the Great Captain, were nothing loath to listen to the entreaties of the citizens. Meetings were held in which formal accusations against the inquisitor and promotor fiscal were laid before the Padre Fray Francisco de Cuesta, comendador of the convent of La Merced, who seems to have been put forward as the leader of the movement. He pronounced judgment ordering Lucero and the fiscal, Juan de Arriola, to be arrested and their property confiscated. Under the lead of the counts the citizens arose to execute the judgment. On November 9 they broke into the Alcázar, where the Inquisition held its seat, seized the fiscal and some of the subordinates and liberated the prisoners, whose recital of their sufferings inflamed still more the popular indignation, though no blood was shed, and Lucero saved himself by flight. The whole proceeding appears to have been orderly; a commission of ecclesiastics and laymen was appointed to whom the kinsmen and friends of the prisoners gave security that they should be forthcoming for trial as soon as there should be a king in the land to administer justice.<sup>2</sup> Deza lost no time, when the news of this reached him, and on November 18 commissioned his nephew, Pedro Juarez de Deza, archbishop-elect of the Indies, to prosecute and punish all concerned in the uprising.<sup>3</sup> What steps he took to effect this do not appear, but early in January, 1507, the bishop of Córdoba, in conjunction with the ecclesiastical and secular authorities, sent a solemn appeal to the pope in which

<sup>1</sup> Archivo de la Catedral de Córdoba, Cajon J, n. 295, 298.

<sup>2</sup> Lorenzo de Padilla, *Crónica de Felipe I.*, *Coleccion de Documentos*, VIII. 153. Padilla adds that many of the prisoners had died of pestilence.

<sup>3</sup> Archivo de la Catedral de Córdoba, Cajon I, n. 301.

they asked him to appoint Archbishop Ximenes and the bishop of Catania or of Malaga with power to investigate and to act, and they followed this, January 10, with a supplication to Ferdinand, who was still in Naples, to support their request with the pope.<sup>1</sup> To this the answer of Julius II. was prompt and uncompromising. His instructions were that the Jews, pretending to be Christians, who had dared to rise against the Inquisition, must be extirpated root and branch; Deza is to labor night and day to suppress this pestilence before it spreads, to hunt up all who have participated in it and to exercise full severity in punishing them for their crimes.<sup>2</sup> With the papal decision thus emphatically in his favor, Lucero resumed his activity. On March 7, 1507, Peter Martyr writes from the court to Archbishop Talavera that his sister and his nephew, Francisco Herrera, dean of Granada (who had doubtless been released in the rising of November 9), have been arrested and thrown into prison in Córdoba. Talavera moreover was at last put on trial before the papal nuncio, Giovanni Ruffo, bishop of Bertinoro, and judges duly commissioned by the pope, and Peter Martyr details his earnest efforts to convince them of Talavera's holy life and spotless character, to which they replied that this may be so, but their business is to ascertain the secrets of the heart.<sup>3</sup>

When the evidence was sent to Julius, however, its worthlessness was admitted, and Pascual de la Fuente, bishop of Burgos, who chanced to be in Rome, bore emphatic testimony to the sanctity of the accused.<sup>4</sup> The papal decision was in his favor, but it came too late. On May 21 Peter Martyr exultingly writes to Talavera that the dean and his sisters, with their mother and the rest of his innocent family have been set free; but already he had gone to a higher tribunal. On Ascension Day he had walked bareheaded and barefooted in the procession through the streets of Granada; a violent fever set in, and after five days' illness he died, May 14.<sup>5</sup> He had accumulated no treasure, having spent all his revenues on the poor; he left no provision for his family, and the bishop of Malaga gave to his sister a house in Granada in which to live. His reputation for sanctity is seen in the accounts which were at once circulated, with universal credence, of the miracles wrought by him in healing the sick.<sup>6</sup>

<sup>1</sup> Ibid., Cajon A, n. 5; Cajon I, n. 304.

<sup>2</sup> *Bulario de la Orden de Santiago*, Lib. III., fol. 320 (Archivo Histórico Nacional). Below will be found the text of this brief, which is inedited.

<sup>3</sup> *Epist. P. Mart. Angler.*, Epistt. 333, 334, 335.

<sup>4</sup> Pedraza, *Hist. Ecles. de Granada*, P. IV., Cap. xxxi.-xxxiv.

<sup>5</sup> Pet. Mart., Epistt. 342. Pedraza, *loc. cit.*

<sup>6</sup> Pet. Mart., Epistt. 344, 457. The Inquisition, which had hunted him to the death, could never forgive him for his escape from it. When the Inquisitor-general Valdés, in

The reaction in favor of the Inquisition, led by Ferdinand and Julius II., had evidently been short-lived, for the political situation dominated everything, and king and pope were obliged to yield. Juana was keeping herself secluded with the corpse of her husband and was refusing to govern. The rival factions of the two grandfathers of Charles V., Maximilian I. and Ferdinand, each striving for the regency during his minority, were both desirous of securing the support of the conversos and thus the question of the prisoners of the Inquisition attained national importance as one on which all parties took sides. Ximenes, the Duke of Alva and the Constable of Castile, the heads of Ferdinand's party, met at Cavia and listened to the complaints against Deza, for which they promised to find a remedy. It may have been with a view to stimulate them that the friends of the prisoners negotiated with Maximilian's faction; they offered money to defray the expenses of troops to be sent to Castile to resist Ferdinand's return, and it was generally rumored that four thousand men were in a Flemish port ready to embark. It is not easy to penetrate into the secrets of the intrigues culminating in the settlement which assured the regency to Ferdinand, but Ximenes, who represented him, took advantage of the situation with his usual skill to further his own ambition, which was to gain the cardinal's hat and Deza's place, and for the latter of these the complaints of the conversos afforded substantial reasons.<sup>1</sup> Córdoba had petitioned the pope to commission him as its judge and his appointment would help to pacify the troubles. Ferdinand at length saw that Deza's sacrifice was inevitable; the way was made easy for him and he was allowed to resign. On May 18, 1507, Ferdinand writes to Ximenes from Naples that he had received the resignation and had taken the necessary steps to secure for him the succession; he has two requests to make—that Ximenes shall foster piety and religion by appointing only the best men, and that he shall exercise the utmost care that nothing shall be allowed to detract from Deza's dignity.<sup>2</sup>

1559, compiled the first Spanish Expurgatory Index, a forgotten controversial tract against the Jews, printed by Talavera in 1480, was resuscitated and condemned in order to include his name among forbidden authors (Reusch, *Die Indices Libror. Prohib.*, p. 232) and this was religiously continued through the long series of Spanish Indices down to the last one, in 1790 (*Indice Último*, p. 262).

<sup>1</sup> Zurita, *Hist. del Rey Hernando*, Lib. VII., Cap. xxix., xxxiv., xlii.; Lib. VIII., Cap. i., v. Zurita, who had himself been secretary of the Inquisition, doubtless reflects its traditions when he says that many murmured when they saw Ferdinand, to win over Ximenes, thus sacrifice Deza, for he was a most notable prelate, a man of great learning and devoted to the king's service.

<sup>2</sup> *Gomesii de Rebus Gestis a Fr. Ximeno*, Lib. III. (Compluti, 1569, fol. 77a). Deza retired to his see of Seville. How fully he retained Ferdinand's confidence was seen in 1508 when among the stern measures taken to subdue the rebellious nobles the Duke of Medina Sidonia was forced to fly to Portugal and his extensive territories were



The cardinalate had already been granted in secret consistory, January 4, and was published May 17.<sup>1</sup> The commission as inquisitor-general was dated June 5.

The hatred excited by Lucero had been too widespread, and the friends of the prisoners were too powerful, to be satisfied with the substitution of Ximenes for Deza, and there was doubtless an understanding that the matter was not to be dropped. Already, on May 1, Peter Martyr writes that it is reported that the imprisoned witnesses, corrupted by Lucero, are to be released and that he will expiate with due punishment his unheard-of crimes.<sup>2</sup> Some such promise was doubtless necessary for the pacification of the land, but the performance was postponed until the ebullition of indignation had time to subside. It assumed the shape of an action brought by the chapter and city of Córdoba before the pope, charging Lucero with the evil wrought by his suborning some witnesses and compelling others by punishment to testify that the plaintiffs were heretics. Julius commissioned Fray Francisco de Mayorga of Baena as apostolic judge to try the case, who on October 17, 1507, issued mandate that Lucero be seized and imprisoned in order to be held to answer according to law. Nothing further was done at the time, however, and the impatient citizens addressed a memorial to Queen Juana informing her of it and asking her to send some one to ascertain the facts and report to her.<sup>3</sup> The months passed away and it was not until May 18, 1508, that the Supreme Council of the Inquisition took independent action in the matter, when Ximenes and all his colleagues, except Aguirre, voted that Lucero should be arrested.<sup>4</sup> Peter Martyr intimates more than once that members of the council were suspected of complicity with Lucero, but that they did not act without first thoroughly investigating the matter, with its numerous witnesses and interminable masses of records of the trials, revealing an incredible accumulation of impossible and fantastic accusations, contrived to bring infamy on all Spain.<sup>5</sup>

It was apparently the first time that an inquisitor had been thus publicly put on trial to answer for his misdeeds, and it would seem to have been the object to render the occasion a solemn one, fitted

seized and placed in Deza's charge. (Zurita, Lib. VIII., Cap. xxv.) He was on the point of being elevated to the primacy of Toledo when he died, June 9, 1533, at the age of 80 (Davila, *op. cit.*, p. 131).

<sup>1</sup> Ciacconii et Oldoini *Vite Pontiff. Rom.*, III. 262 (Romæ, 1677). Ferdinand had applied for this as early as November 8, 1505, and had repeated the request, October 30, 1506.—Correspondence of Rojas (*Boletín*, XXVIII. 440, 457).

<sup>2</sup> P. Mart. Angl., Epist. 339.

<sup>3</sup> Archivo de la Catedral de Córdoba, Cajon I, n. 303.

<sup>4</sup> Biblioteca Nacional de Madrid, Sección de MSS., G. 61, fol. 208.

<sup>5</sup> P. Mart. Angler., Epist. 370, 382, 385.



not only to satisfy the national interest felt in the case, but to magnify the office of the accused by the scale of the machinery necessary to deal with him. Lucero was carried in chains to Burgos, where the court was residing, and was confined in the castle under strict guard. Ximenes assembled a *Congregacion Católica*, composed of twenty-one members besides himself, embracing a large portion of the royal council, the inquisitor-general of Aragon and other inquisitors, several bishops and other dignitaries—in short, a full representation of the piety and learning of the land. After numerous sessions, presided over by Ximenes, sentence was rendered July 9 and was published August 1 at Valladolid, whither the court had removed, in presence of Ferdinand and his magnates and a great concourse assembled to lend solemnity to this restoration of the honor of Castile and Andalusia, which had been so deeply compromised by the pretended revelations extorted by Lucero. It declared that there were no grounds for the asserted existence of synagogues, the preaching of sermons and the assemblages of missionaries of Judaism, or for the prosecution of those accused. The witnesses—or rather prisoners—were discharged and everything relating to these fictitious crimes was ordered to be expunged from the records of the Inquisition. To render complete the vindication of the memory of the victims, Ferdinand ordered to be rebuilt the houses in Córdoba which had been torn down under the provisions of the canon law requiring the demolition of the conventicles of heresy. Lucero was sent back in chains to Burgos, to be strictly confined in the castle, but, with the tenderness always displayed for inquisitorial aberrations, he was soon afterwards permitted to retire to the canonry in Seville, which he had acquired by the ruin of the archdeacon of Castro and where he long resided in peace.<sup>1</sup> Whether the confiscations were restored to their rightful owners and their heirs does not appear.

HENRY CHARLES LEA.

<sup>1</sup> Pet. Mart. Angler., Epist. 398. Llorente, *Memoria Histórica acerca del Trib. de la Inquisicion*, pp. 145-50 (Madrid, 1812). Gomesii *de Rebus Ximenii* Lib. III., fol. 77 b. Llorente quotes from the MS. of Pedro de Torres, a contemporary fanatic supporter of the Inquisition, that a clause declared that those burnt in Córdoba had been justly punished. This, however, is incompatible with the terms of the sentence, with the restoration of the houses, and with the assumption of Peter Martyr, who was present, that the innocence of the accused was proved. After mentioning the imprisonment of Lucero he adds "Sed quid? mortene sua Thersites mille pensabit Hectorum aerumnas? Levabit miserorum curas, cordis anxii pressuræ medebitur aliquantulum se injuria damnatos, se sub iniquo iudice causam habuisse, patefieri?"

## JULIUS II. TO INQUISITOR-GENERAL DEZA.

(Bulario de la Orden de Santiago, Libro III., fol. 320. In Archivo Historico Nacional.)

Venerabilis frater salutem, etc. Non sine summa animi molestia percipimus quosdam iniquitatis filios Catholicæ fidei rebelles qui cum Christiani sint judaicæ se perfidiæ participes præstant, officiales a te ad inquirenda hæreticæ pravitatis errata constitutos Cordubæ, quorundam adminiculo complicum, captivos fecisse et quod auditu quoque nefarium est mulctatos male et contumeliose habitos diu in vinculis detinuisse, quæ res cum pessimi prorsus ac perniciosissimi sit exempli, pro cura quæ Catholici gregis ab hæreticorum rabie defendendi, una cum apostolatus officio nobis est demandata mature providendum duximus, ne lues tam pestifera serpat ulterius neve sua contagione rectus commaculet. Quamobrem fraternitati tuæ cui jam pridie talia perquirendi facinora et reperta puniendi potestatem arbitriumque contulimus districte mandamus ut commissum sibi munus fervide et severe exerceat ac subnascentem in agro Domini zizaniam abolere et radicitus extirpare non cesset, fidelium defensionem ut par est die noctuque excubando. Præfatos vere qui tam abominandum scelus ausi sunt, cum suis complicibus et quicumque eis auxilium, consilium, favoremve ullum præstiterunt undique conquisitos ac debitis subjectos pœnis exemplum cæteris statuas ne aliquando ad peccati similitudinem ex impunitate accendantur. Volumus autem hæc omni diligentia quamprimum a fraternitate tua curari et effici, nam exorientia tabiferæ pestis capita ne serpant, in ipsis statim principiis sunt opprimenda, ad quod per ecclesiasticas censuras et universa juris remedia ut magis expedire videbitur, appellatione remota, procedes, in contrarium facientibus nonobstantibus quibuscunque. Dat. Bononiæ.<sup>1</sup>

<sup>1</sup> Without date, but it must have been issued between November 10, 1506, when Julius II. entered Bologna, and February 22, 1507, when he departed.—Raynald. *Annal.* ann. 1506, n. 30; ann. 1507, n. 2.

## DIPLOMATIC MISSIONS TO THE COURT OF CHINA

### THE KOTOW QUESTION.

#### II.

THOUGH the Russian mission to Peking of 1654 was a failure, no evil ensued, and trade between the two nations along their frontiers continued as in the past. When negotiating with China the treaty of Nipchu in 1689, the Russians demanded that should one country send ambassadors to the other to communicate the leading events in the two empires, these ambassadors should be treated with every honor, that they should hand the letters of their masters *into the hands* of the emperor to whom they were sent, and that they should have entire liberty in whatever place they might be, even at court. To this the Chinese plenipotentiaries returned an evasive answer, saying that envoys would always be received with distinction, but that it was, of course, quite beyond the limits of their authority to pledge the emperor to any alteration in the ceremonials of his court.<sup>1</sup>

Ysbrandt Ides was the first envoy sent by Russia to the court of China after the conclusion of this treaty. He came there in 1692 and has left an interesting narrative of his journey, but tells us nothing of his audience with the Emperor K'ang-hsi.

In 1719 Peter the Great sent to China another envoy, Count Leoff Ismailoff, two accounts of whose journey have reached us, the one by Father Ripa, one of the Jesuits of Peking, the other by an Englishman, John Bell of Antermony, a member of the embassy.<sup>2</sup>

On the 29th of November, 1720, Count Ismailoff made his public entry into Peking, with a retinue of ninety persons and to the sound of military music. A guard of five hundred Chinese soldiers cleared the way. A Russian officer, "well composed and accoutered" to impress the Chinese mind with the envoy's importance, and with drawn sword, opened the procession; then followed soldiers and a kettle-drummer, a number of servants and after them the count on horseback. On one side of him walked a man of gigantic stature and on the other a dwarf, while the gentlemen of the embassy, sec-

<sup>1</sup>See Du Halde, *Description*, etc., IV. 197.

<sup>2</sup>See *Memoirs of Father Ripa during Thirteen Years' Residence at the Court of Peking*, etc. (F. Prandi's translation), p. 115 *et seq.*, and John Bell, *A Journey from St. Petersburg in Russia to Peking in China*, p. 264 *et seq.*

retaries and servants brought up the rear, some on horseback, others on foot. They were lodged in the compound of the ecclesiastical mission, at present the Russian legation, and the outer court door was locked and sealed by the Chinese with the emperor's seal.

While the envoy was engaged in conversation on the day of his arrival with commissioners appointed to conduct negotiations with him, and among whom were several Jesuit missionaries, the dinner, consisting of fruits, confections and a piece of excellent mutton, sent him by the emperor, was brought in, and the commissioners requested the count to return thanks by making the accustomed prostrations. Ismailoff refused, alleging that he represented his sovereign, who was on equal terms with the emperor. He consented, however, to make an obeisance according to the custom of his own country, and with this the commissioners were forced to be satisfied.

All this was, of course, at once reported to the emperor, who thought to elude the difficulty by first inviting the envoy to a private audience. The count said he would accept it if he could present his credentials; he furthermore stated that when presenting them he would not make the prostration, but only the obeisance which European ambassadors made before the princes to whom they were sent. He also said that he must place the letter in the emperor's own hands, and not, according to Chinese custom, upon a table whence it was taken by a great officer of state and presented to His Majesty.<sup>1</sup> This was, of course, refused. When various other suggestions had been made to Ismailoff by messengers from the emperor as to how he might present his letter of credence, and all had been put aside by the ambassador as beneath the dignity of his high station, His Majesty, perceiving that he firmly persisted in his resolution, declared through his messengers that whenever he should send an ambassador to the czar he would stand uncovered before him, although in China none but condemned criminals exposed their heads bare, and should perform all the other ceremonies customary at Moscow. No sooner had they arrived at these words than the chief mandarin instantly took off his cap before the ambassador, and the latter, being thus satisfied, promised to perform the prostrations according to Chinese custom,<sup>2</sup> and also to place the

<sup>1</sup>At the present day this is the only point which the Chinese have not conceded. The letters of foreign sovereigns are still placed on a table, but *within reach* of the emperor.

<sup>2</sup>One of the Jesuits residing at Peking at the time says that the emperor ordered a high officer to perform before the letter of the czar the same prostrations the Russian envoy would have to make before him; after which the Russian did not hesitate to go through the prescribed ceremony of kotowing. See *Lettres Édifiantes et Curieuses*, III. 308.

letter upon the table in sight of the emperor sitting on his throne, so that one of the courtiers might afterward convey it to His Majesty.<sup>1</sup> The mandarin further stated that the ambassador had the imperial permission to repair to the gate of the palace in the same state in which he had entered Peking.

The audience took place on the 9th of December, at a place about six miles westward from Peking,<sup>2</sup> whither the ambassador and his suite repaired on horseback. After Count Ismailoff and the ninety men of his suite had been kept waiting, first for half an hour or so in a small building where they drank tea, and then in silence for a long while in the open vestibule of the great audience-hall, the emperor arrived, and took his seat on his throne of carved wood, raised five steps above the floor of the hall. He sat cross-legged; on his right were three of his sons seated upon cushions, and, a little further off, halberdiers, pages, eunuchs, his chief courtiers and some of the Jesuits, all standing. The emperor was dressed in a yellow tunic over which was a sable jacket. On his head was a small cap, the top of which was a large pearl, the only ornament he wore. At the foot of the throne, on the floor of the great hall, sat, upon cushions, in distinct rows, the first mandarins of the empire, the Kung-yeh, or dukes or lords of the imperial family, and many other mandarins of inferior rank. Before the throne, near the entrance of the great hall, stood a table prepared with sweetmeats, for His Majesty.<sup>3</sup> In the open vestibule, which was seven steps lower than the great hall, was another table, beyond which Count Ismailoff was made to stand. According to Chinese etiquette, the ambassador should have placed the letter upon this table, kneeling down in the vestibule; but the emperor ordered that the table should be brought into the audience-hall, and that the ambassador should also advance, which was a mark of honor.

Count Ismailoff then entered, and immediately prostrated himself before the table, holding up the czar's letter with both hands. The emperor, who had at first behaved graciously to the envoy, now thought proper to mortify him by making him remain some time in

<sup>1</sup> Bell's account differs somewhat from that given above, which is taken from Father Ripa's narrative.

<sup>2</sup> Bell's dates are in Russian style, twelve days earlier. Ismailoff was received in audience at Yuan-ming-yuan, the Summer Palace, a few miles west of Peking. Father Ripa transcribes the name of the palace where the emperor was then residing, Chan-choon-yuen.

<sup>3</sup> The emperor K'ang-hsi, who reigned from 1662 to 1723. Gemelli Carreri, who saw him in 1695, says of him that he was "of stature proportionable, his countenance comely, his eyes sparkling, and somewhat larger than generally his countrymen have them; somewhat hawk-nosed, and a little round at the point; he has some marks of the small-pox, yet they do not at all lessen the beauty of his countenance." *Voyages round the World*, Pt. IV., Bk. II., ch. I. (Churchill's Collection, IV. 304).

this particular posture.<sup>1</sup> The proud Russian was indignant at this treatment and gave unequivocal signs of resentment by certain motions of his mouth and by turning his head aside, which, under the circumstances, was very unseemly. Hereupon His Majesty prudently requested that the ambassador himself should bring the letter up to him, and, when Count Ismailoff did so, kneeling at his feet, he received it at his own hands, thus giving him another mark of regard, and granting what he had previously refused.

After the presentation of the letter the ambassador, attended by the master of the ceremonies, returned to his former place in the open vestibule, but shortly after moved to the centre opposite the chair in which the emperor was seated. Behind the emperor stood his principal attendants, and further back a number of soldiers and servants.<sup>2</sup> When all present were thus marshalled in due order, at particular signals given by the master-in-chief of the ceremonies, they all went down on their knees, and, after the lapse of a few minutes, bent their heads thrice to the ground. After this all arose upon their feet, then again kneeled and prostrated themselves three times. In this manner they kneeled thrice, and performed nine prostrations, which ceremony is known as *san kwei chin k'ou*, "the three kneelings and the nine head-knockings."

The ambassador was then conducted to the emperor's feet, and was asked by His Majesty what request he had to make. Count Ismailoff answered that the czar had sent him to inquire after the health of His Majesty, and to confirm the friendly relations that existed between them. To these inquiries the emperor replied in a very courteous manner; and then added that it being feast day, it would not be proper to discuss business, for which an audience would be granted at another opportunity. The ambassador was then allowed to sit down on a low cushion at the end of the row in which were the Kung-yeh, or dukes, and four of his principal attendants were placed behind him at the extremity of the next row, and the imperial banquet began, the emperor handing Ismailoff with his own hands some wine in a gold cup. After this a table of sweet-

<sup>1</sup> Bell (*op. cit.*, 272, 273) does not refer to this little incident. He says on the contrary that just as the count was about to place his credentials on a table in the hall near the door, the emperor beckoned for him to approach, and Ismailoff walked up to the throne, and kneeling, laid them before the emperor, who touched them with his hand. After this the ambassador was led back to the entrance to the hall, and there he and his suite performed the kotow.

<sup>2</sup> Bell (p. 273) says he pronounced the Tartar words *morgu* and *boss*, the first meaning to bow, and the other to stand; "two words which I cannot soon forget." Conf. Gemelli Carreri's account of the ceremonial in the times of the emperor K'ang-hsi, where he gives the correct *Chinese* expression used by the master of ceremonies on such occasions. Gemelli Carreri, *loc. sup. cit.*



meats was conveyed to the ambassador, and then another upon which were dishes from the emperor's own table, among others some boiled pheasants. There was music and dancing during the whole time of the banquet, and various other amusements, and it was nearly night before the emperor retired, and the Russians left without further formality, "so well satisfied with the gracious and friendly reception of the emperor that all their former hardships were almost forgot."<sup>1</sup>

A Portuguese mission under Alexander Metello Souza Menezes reached Peking in May, 1727, and an interesting account of the discussion preceding its reception by the emperor is found in a letter of Father Parrennin, one of the Peking Jesuits, to his friend, Father Nyel.<sup>2</sup> Metello, when received by the emperor, placed *in his hands* the letter of the king of Portugal, John V., congratulating him on his accession, and then withdrew to the front part of the audience-hall, where he and his suite performed the three kneelings and nine head-knockings. After this he was given a cushion nearer the throne than that of any officials present. Here he, kneeling, made his address to the emperor, and on the whole comported himself with "such grace and courtliness" that the emperor said of him: "This man is agreeable and polished," and every two days thereafter he had dishes sent to him from his own table. The 7th of July Metello took his leave of the emperor at the Summer Palace and returned to Macao.

From 1684, or thereabout, when the British first gained a footing in China, until the end of the eighteenth century no endeavor was made by them to open direct diplomatic intercourse with the court of Peking, but in 1788 it was deemed advisable to send an embassy there to put, if possible, the relations between the two countries on some kind of regular and dignified footing. Col. Cathcart was then appointed minister to the court of Peking, but as he died while on his way to his post, the mission was deferred until 1792, when the Earl of Macartney was chosen ambassador, and in the latter part of July, 1793, he arrived off Taku bar at the mouth of the Peiho. Here he, his numerous suite, guards, musicians, etc., and the presents destined for the emperor were embarked on board native boats and taken with great pomp and ceremony to Tien-tsin. Lord Macartney was there told that the emperor would receive him at Jehol, outside the Great Wall, where he had gone to celebrate his sixtieth birthday, so he sailed on up the Peiho to Tung-chou, while, over the boats that bore him, gaily floated in the breeze Chinese

<sup>1</sup> Bell, *op. sup. cit.*, p. 277.

<sup>2</sup> *Lettres Édifiantes et Curieuses*, III. 548-55.

flags bearing in large characters "Ambassadors bearing tribute from the country of England."

From Tung-chou the embassy traveled to Peking, which it entered by the Chao-yang men, or eastern gate in the Tartar city, and passing round the palace and out by the western side of the Tartar city stopped in a village near the Summer Palace. It was decided by the Chinese that the presents destined for the emperor should be displayed in the audience-hall of the Summer Palace, and Lord Macartney was asked to prostrate himself before the throne, as the Dutch and other foreign envoys had done before him.

The ambassador agreed not only to perform the prostration, but also to conform to every exterior ceremony practised by His Imperial Majesty's subjects, and the tributary princes attending at his court, if a subject of His Imperial Majesty, of equal rank to his own, should perform, before the picture he had with him of His Majesty King George III., dressed in his robes of state, the same ceremonies that the ambassador should be directed to perform before the Chinese throne.

This proposition was forwarded to the emperor for his approval, but without waiting for an answer the ambassador set out for Jehol in his post-chaise accompanied by some members of his suite. On his arrival there the Chinese opened the audience question and, ignoring the propositions made previously by Lord Macartney, pressed him to perform the *kotow*, saying that it was a simple, unmeaning ceremony. They were willing to have some slight alterations made in the ceremonial so that it should not be exactly the same as that performed by the envoys of Korea, Liu-chiu and other vassal states; but Lord Macartney would only agree to bend upon one knee before the emperor, as he did before his king. According to the British official narratives of the mission this was accepted by the emperor, and the audience took place shortly after in a tent in the palace gardens, where the ambassador was kept from before dawn awaiting the emperor's arrival.

There is a strong suspicion in the minds of many that Lord Macartney made the detested prostrations. Æneas Anderson, a member of the embassy, but who, it is true, was not present at the audience, says that the ceremonial followed was kept a profound secret by those who witnessed it, and intimates that something that had to be concealed then happened.<sup>1</sup> The Chinese on their side emphatically assert that Lord Macartney *kotowed*.<sup>2</sup> Furthermore the Russian interpreter, Vladykin, who was in Peking at the time, and other

<sup>1</sup> Æneas Anderson, *Narrative of the British Embassy to China in 1792-93*, p. 193.

<sup>2</sup> Henry Ellis, *Journal of the Proceedings of Lord Amherst's Embassy to China*, 92.

persons who must have had good opportunities for ascertaining the facts, state that the British ambassador did perform the three kneelings and nine head-knockings.<sup>1</sup>

However this may be, Lord Macartney left Jehol after a few days and returned to Peking, where he was given the emperor's very haughty and highly unsatisfactory answer to King George's letter, and a broad hint to leave as soon as possible was conveyed to him by the privy council, which had shown itself throughout most unfriendly and often discourteous. With this the embassy hurried away and re-embarked on the ship awaiting it off Taku.<sup>2</sup>

I shall only refer briefly to the Dutch mission to Peking in 1794, under Titzing of the council of Batavia and Van Braam, chief of the Dutch factory at Canton, which was sent with the ostensible purpose of congratulating the emperor, Ch'ien-lung, on his sixtieth birthday. It traveled overland from Canton, hurried along most of the way in carts (sedan chairs were refused the envoys), and reached Peking on a cold winter night in January, 1795.

After passing a miserable night in a filthy inn outside the gates of the Tartar city, without even anything to eat, the embassy was driven by a circuitous route around the imperial city, and lodged in some dirty little buildings, not far to the west from where now stands the British Legation, possibly in some one of the little inns in the Nei Kuan now used and probably then used by Mongols on their winter visits to the capital.

The morning after their arrival an official with a red coral button and a peacock feather in his hat brought the ambassadors a large sturgeon sent them from the palace, and the envoys received the gift in the courtyard, kneeling and knocking their heads on the ground. They were told that the emperor would receive them the next day, and that they must not fail to powder their hair and to be ready by three o'clock in the morning. They were driven off in carts and reached the palace by five o'clock. Coming to the west side of the imperial city, near where now stands the Pei-t'ang Catholic cathedral, they waited, first in one then in another of the little guard-houses near the gate, laughed at and stared at by the noisy, dirty crowd. At last day broke; they were led into the imperial city, across the marble bridge, and then ordered to kneel by the side of the road in company with some Korean envoys and a lot of Mongols, there to await the passage of the emperor, who was shortly to pass by on his way to one of the pavilions along the northwest shore of the Northern Lake.

<sup>1</sup>Abel Rémusat, *Mélanges Asiatiques*, I. 450-441. Also, Barry E. O'Meara, *Napoleon in Exile*, II. III.

<sup>2</sup>See Sir George Staunton, *An Historical Account of the Embassy to the Emperor of China*, pp. 250-383.

When the imperial cortège reached the Dutch, their letters of credence were taken from them while they prostrated themselves before the emperor seated in his yellow sedan-chair. The emperor stopped a minute, and learning who these strange, powder-headed creatures were, asked the age of their prince and if he were in good health, and then passed on.

The Dutch were then led into the gardens surrounding the frozen lake and into a pavilion near that in which the emperor was breakfasting. Here some food was given them, and they again prostrated themselves before these gifts from the emperor's table. After this they were taken back into the park to witness the Chinese skating, and to see the emperor in his sleigh, and they showed their proficiency in the art of skating, much to the delight of the coolies, soldiers and palace servants. When the emperor, a little later, returned to his palace the Dutch appear to have been led into the Forbidden City, where they were received by Ho Chung-t'ang, one of the members of the Inner Council, probably, before whom they also kneeled and then remained standing all the while he addressed them.

During the rest of their sojourn at Peking the Dutch were treated as freaks of nature, to be stared at and to afford amusement for the crowd. They were even led to the palace to be looked at by the women; they were refused permission to see any of the missionaries; they were half starved and frozen; they had to be at the palace every day, and were made to prostrate themselves so often and before so many persons that they were on the point of rebelling. Finally the presents from the stadtholder were delivered, and return presents and a letter sent by the emperor given them; and after having been in Peking forty days, they left it again on the 14th of February, apparently much sadder but wiser men.<sup>1</sup>

In 1805 the Russian government sent, at the request of that of China, an embassy to the court of Peking. It was organized on a most brilliant scale, and was led by Count Golovkin. In the middle of January, 1806, the envoy reached Urga, where discussions as to the ceremonies to be followed at the imperial audience began. Golovkin refused to *kotorw*, alleging that Lord Macartney had not done so. The question was referred to Peking, and the embassy had to await the imperial commands; but in the meantime the governor of northern Mongolia received orders to give the count an imperial banquet before the imperial throne, and here the ambassador was requested to *kotorw* before a screen and a yellow-covered table which figured the emperor. Golovkin refused, the banquet was not

<sup>1</sup> De Guignes, *Voyage à Peking, Manille et l'Île de France*, I. 357-439.

given, and on the 10th of February orders came from Peking dismissing him, and he promptly set off for Russia again.<sup>1</sup>

In the year 1815 the increasing difficulties which the British at Canton were continually experiencing as a result of the oppressions of the local government, and also the absence of trade regulations, induced the Court of Directors of the East India Company to submit to the home government a proposition recommending the sending of an embassy to Peking. One of the chief grievances of the British against the Chinese was their resenting the seizure in their territorial waters of several American ships by the commander of H. B. M. ship *Doris*, and their visiting their displeasure on the Company's people at Canton. In 1816 Lord Amherst was appointed ambassador to China, and in the latter part of July of the same year he arrived off Taku, on his way to Peking. Here some officials of low degree met him, and a few days after the ambassador and his suite of fifty-four persons set out for Tien-tsin in native boats.

Lord Amherst now began to show signs of perplexity; was he to kotow or should he refuse? He consulted the officers of his suite and found them divided on the subject, Mr. Morrison his interpreter and Mr. Ellis being in favor of his complying with the Chinese request, while Sir George Staunton held its performance incompatible with personal and national dignity.<sup>2</sup>

Some preliminary discussion about kotowing took place between Lord Amherst and a Tartar official, styled Kuang Chin-chai, deputed from Peking to meet the embassy on the occasion of an imperial banquet, given in all likelihood at the Hai-kuang ssü near Tien-tsin. This official said the ceremonial required would be the same as that observed in Lord Macartney's case, implying, of course, that the kotow would be expected. Amherst replied that he would follow in every respect the precedent established by the former British ambassador, meaning of course that he would only bend the knee. Then the Chinese declared in the most emphatic manner that Lord Macartney had kotowed whenever asked. Lord Amherst's expressions of anxiety to show the emperor the same marks of veneration as he would His Britannic Majesty did not pacify them, and they freely stated their belief that the embassy would not be received by the emperor. Finally, the kotow was dispensed with for this occasion only, and the Chinese were satisfied with Lord Amherst's bowing nine times before the imperial table, and agreeing, on his reception by the emperor, to kneel upon

<sup>1</sup> G. Timkowski, *Voyage à Peking*, I. 133-136.

<sup>2</sup> See Henry Ellis, *Journal of the Proceedings of Lord Amherst's Embassy to China*, pp. 78, 109, 152, 153, 171.

one knee and make his obeisance in that posture, and to repeat this nine times in succession.

On the 14th of August the embassy left for Tung-chou in boats. On the way up it had several squabbles with the officials escorting it. The emperor forbade Lord Amherst's orchestra to accompany him to Peking, and insisted on the kotow, asserting that Lord Macartney had performed it. The presents were also refused and the embassy ordered back unless the obnoxious prostration was gone through with. Lord Amherst tried Lord Macartney's suggestion that he would kotow if a Tartar of equal rank with him did so before the portrait of the Prince Regent, or, if this proposition was unacceptable, he would kotow, if the emperor issued a decree stating that any Chinese ambassador who might hereafter be presented at the British court should perform the kotow before His British Majesty. Both suggestions were refused; the officials to whom they were made would not even submit them to the emperor, whose ultimatum was—kotow or no audience.

Lord Amherst turned back, dropped down the river and anchored at Tsai-tsung, a little town on the Peiho. Here after a while further orders reached him from the emperor directing him to Tung-chou, there to discuss again the audience question with newly appointed envoys and go through a rehearsal of the ceremony originally agreed upon at Tien-tsin.

On the 20th of August the embassy reached Tung-chou, where once more the ceremonial question was discussed, the Chinese showing themselves haughty, insolent and unbending in their demands. Lord Amherst appears to have been on the verge of ceding, rather than to see his embassy fail, and Ellis expressed the view that the national respectability would not suffer thereby, and that the difference between nine prostrations of the head to the ground upon two knees, and nine profound bows upon one knee, was after all very slight.<sup>1</sup> Sir George Staunton, however strenuously opposed this view, and finally Lord Amherst informed the Chinese commissioners that his decision was irrevocable, and that he would not kotow.

The embassy remained at Tung-chou a week, when suddenly orders came for Lord Amherst to go at once to the village of Haitien, near the Summer Palace, at which latter place the emperor had decided to receive him. Here he arrived on the 29th of August, after having been taken around Peking instead of through the city. He was without a moment's delay led to the Summer Palace and told that the emperor would at once receive him. Amherst said he could not appear in his present state of fatigue, inanition, and defi-

<sup>1</sup> Henry Ellis, *op. sup. cit.*, p. 152.



ciency of every necessary equipment, not to mention the fact that he had not his credentials with him. He boldly refused to cede to anything but violence, saying that he was so overcome by fatigue and bodily illness, as absolutely to require repose.

The emperor, it is said, at first accepted his excuses, and sent his own surgeon to attend him, and the ambassador returned to Hai-tien ; but hardly had he arrived there when orders dismissing him came from the emperor, who had apparently become in the meanwhile incensed at Amherst's refusal to attend him according to his commands. It would seem that the surgeon reported that Amherst was shamming illness, and that this had caused the emperor to order the instant dismissal of the mission.

Lord Amherst left the same day for Tung-chou where he received some presents for the Prince Regent from the emperor ; and the pictures of the king and queen of England, some maps and colored prints were sent him back in return. On the 2d of September the embassy started for Tien-tsin, and thence down the grand canal to the Yang-tzū river which was entered on the 19th of October, and then by way of Nan-king to Canton, which was reached on the 1st of January, 1817, and here the ships which had brought it the year before to Taku were in waiting to take it back to England.

Lord Amherst's conduct of his mission gave rise to much discussion in Europe ; I will not give the many arguments advanced for or against his refusal to perform the kotow. I cannot forbear, however, quoting the opinion of Napoleon I. as given by O'Meara :<sup>1</sup> "The emperor of China had a right to require the *ko-tou*. It is an extraordinary presumption for you to attempt to regulate the etiquette of the palace of Peking by that of St. James ; the simple principle which has been laid down, that in negotiation as well as in etiquette, the ambassador does not represent the sovereign, and has only a right to experience the same treatment as the highest grandee of the place, clears up the whole of the question, and remedies every difficulty. Russia and England should instruct their ambassadors to submit to the *ko-tou*, upon the sole condition that the Chinese ambassador should submit in London and Petersburg to such forms of etiquette as are prescribed for the princes and grandees. In paying respect to the customs of a country, you make those of your own more sacred ; and every homage which is rendered to a great foreign sovereign in the forms which are in use in his own country, is becoming and honorable. Every sensible man in your country therefore can consider the refusal to perform the *ko-tou* not otherwise than as unjustifiable and unfortunate in its consequences."

<sup>1</sup> Barry E. O'Meara, *op. sup. cit.*, II. 112-114.

In 1858 Mr. John E. Ward was appointed minister of the United States to China and instructed to proceed to Peking, there to deliver to the Emperor Hsien-feng a letter of the president, and effect the exchange of the ratified copies of the treaty signed in June of the same year at Tien-tsin by our first minister to China, Mr. W. B. Reed.

Mr. Ward left Shanghai in June, 1859, on the U. S. ship *Powhatan* and in due course reached the village of Pei-t'ang, to the north of the mouth of the Peiho river. Here he landed and was taken to Peking, part of the way in carts and part in boats; but over the carts and boats floated an ominous little yellow pennant with the words "Tribute bearers from the United States."

On the 28th of June the mission entered Peking. The imperial commissioners appointed to confer with the minister were the same who had the year before signed the treaty with Mr. Reed, and who were a year later to play such an important rôle with the British and French plenipotentiaries. They insisted that the treaty could only be exchanged after an audience of the emperor, but they were pleased to admit that, as the United States were neither a vassal nor a tributary state like Korea, Liu-chiu or Annam, their envoy could not be expected to perform the three kneelings and nine head-knockings, and that the emperor would be satisfied with one kneeling and three head-knockings.

Mr. Ward replied, like the Arab envoys to the Chinese emperor in the eighth century, that he knelt to God only, and furthermore he cared nothing for an audience which he had not sought. One of the Chinese commissioners then adduced an argument which had done service in the case of Lord Amherst, and which was to be brought forward again in 1873. "Our sovereigns are of equal rank, and so are you and we, their ministers. Now, we kneel before the emperor, so you should do likewise, for if you do not you raise yourself above us." According to Napoleon's theories, this argument was unanswerable, but Ward refused to consider it so, and insisted that he would only bow to the emperor in the same way as he would to the president of the United States. He also asked the commissioners if they would prostrate themselves before a foreign potentate, to which they promptly replied that they would be ready not only to knock their heads on the ground, but that, if required, they would burn incense before him as they do before their gods.

Finally a compromise was agreed upon which, it was thought, would meet with the emperor's approval. Ward was to approach the throne and bow as low as he would to the president of the

United States, when chamberlains would run forward to him on either side crying out, "Don't kneel!" Those of his suite presented with him would go through the same ceremony, after which he would respectfully place the letter of the president on a table so surrounded with embroideries as to conceal most of his person from the emperor, who would not be able to see whether he was kneeling or standing. After this the letter would be taken by a courtier who would present it, kneeling, to the emperor.

The emperor, however, proved obdurate. His reply was that, unless Mr. Ward actually touched one knee or the ends of his fingers to the ground, he would not receive him. Of course this was refused, and a few days later the letter of the president was delivered to the commissioners, who had been ordered in the meanwhile by the emperor to receive it. The exchange of ratifications was effected in an unceremonious way at Pei-t'ang, where Ward embarked again on the 17th of August for Shanghai.<sup>1</sup>

With Ward's failure the first portion of this long-fought battle came to an end. In it the Chinese had scored victories over the Arabs, Russians, Dutch, Portuguese, British and Americans, and in the middle of the nineteenth century the western world had no reason to believe that China would ever depart from its successfully enforced demand that foreign envoys should prostrate themselves before the emperor in compliance with the immemorial custom of the country and of Asia generally.

But even the Chinese world moves, and so it happened that when once again the audience question was brought under discussion, the relations of China with the powers of the West had undergone such changes, that it was no longer possible for it to withstand the pressure of public opinion and to ignore the necessity of conciliating the despised Western Barbarians, and so in the narrative of the second half of this great fight we have only to chronicle China's defeats.

The audience question, about which nothing had been heard since foreign diplomatic representatives were first allowed to reside in Peking in 1860, but for which they had been quietly preparing, was brought to the front in the commencement of 1873, when the emperor Tung-Chih reached his majority. The foreign ministers at Peking, as soon as they had been advised of his assumption of personal control of the empire, asked to be allowed to present to him their congratulations and the letters accrediting them to his

<sup>1</sup> S. Wells Williams, *Journ. North China Branch, Roy. Asiat. Soc.*, No. 3, pp. 315-342. Id., *The Middle Kingdom*, II. 668-670. Also *Correspondence and Despatches of the U. S. Ministers to China, 1857-1859*, p. 575 *et seq.*, and W. A. P. Martin, *A Cycle of Cathay*, 190 *et seq.*

court. Ministers of the newly created Foreign Office (Tsung-li Yamên) raised no very serious objections to the granting of the audience, provided the forms and ceremonies customary among the Chinese upon such occasions, among which that of kotowing was the most important, were complied with. They contended, as had been so frequently done before, that none but equals of the emperor could be allowed to stand in his presence; that he had no equals but the actual heads of foreign governments; that while the diplomatic representatives of these governments acted for their sovereigns, they were not possessed of the same power and could not, therefore, be considered equals in rank. One might think they had taken their arguments from Dr. O'Meara's book, and that Napoleon I. was fighting their battle. The foreign ministers signified that the fact of kneeling before the emperor would imply that their countries were inferior to China, that it would be offensive to the dignity of their governments and debasing to themselves; but they were promptly answered that in past times the envoys of the emperor of Russia had not hesitated to comply with this custom. The Chinese also insisted that if the foreign ministers knelt before the emperor they did nothing more than was required of the princes of the blood, and that should they remain standing, these latter would appear the inferiors of the foreigners. The real difficulty appears to have been the fear in which the Chinese ministers stood of the emperor, and their disinclination to represent to him the exact condition of things, which would show the altered condition of Chinese relations with foreign governments since the conclusion of the treaty with Great Britain in 1858.<sup>1</sup> However, after four months of contention, it was finally agreed that the ministers then present at Peking should be received by the emperor on the 29th of June (1873).

I take from despatches addressed by the United States minister, Mr. Frederick F. Low, to the secretary of state, and from memoranda accompanying them, the following facts concerning this audience, which he rightly regarded as marking a new departure in the relations of foreign nations with China.

<sup>1</sup> Tseng Kou-fan realized in 1868 how impossible it was in the altered condition of the relations between China and Western powers, for the emperor to insist on compliance with Chinese etiquette by foreign representatives at the court of Peking. In his famous secret memorial to the emperor Tung-Chih (see *Papers Relating to Foreign Affairs*, 1868, Pt. I., 519-521) he advised him to treat Western nations as equals, for he could have no desire to arrogate to himself the sway over lands within the boundless oceans, or require that their ministers should render homage as did the Koreans and other tribes. He advised the emperor when he took the reins of government to grant them audience and to settle the presents and ceremonies to be followed at the time; "they, the envoys, need not be forced to do what is difficult. This course would best suit China's dignity and show its courtesy."

At six o'clock in the morning of the 29th of June the ministers of Russia, the United States, Great Britain, France and the Netherlands assembled at the "Fu Hua gate" in the wall that surrounds the Forbidden City, where they were met by one of the grand secretaries and several ministers. Here they left their chairs and escorts and were conducted on foot to the Shih-ying kung or "Palace of Seasonableness," a temple to the west of the Middle Lake in a remote corner of the palace grounds and near the Catholic cathedral known as Pei T'ang, and where the god of rain is worshipped by the emperor. They were shown into the imperial robing-room attached to the temple, where refreshments consisting of cakes, sweetmeats, fruits, and tea were served them; these refreshments the grand secretary was particular to inform them had been prepared in the imperial household, but this time no kotow was required before this "banquet." After waiting an hour or more the ministers were conducted to a large marquee on the west side of the neighboring reception hall, called the Tzū-kuang ko, or the "Hall of Purple Brightness," where Prince Kung, the president of the Foreign Office, and the rest of the ministers of the Ya-mèn were waiting to receive them. This hall, by the way, is that in which the emperor entertains each year at a banquet the tributary Mongol princes who come to the capital to do him homage, and which has also in past times been used by the emperor as a grand stand from which to view archery contests or boat races on the lake stretching between it and the palace walls. Here the foreign envoys were again forced to wait a long time, the Chinese minister apologizing for the delay, saying that the emperor had received important despatches from the seat of war in Kashgaria that had detained him. Finally, the emperor having arrived and having taken his seat in the chair of state within the hall, the five foreign ministers were allowed to enter by the left-hand door of the hall, not by the central one which is reserved for the emperor alone. As they filed across the hall and came in front of the throne, they bowed to the emperor, and then advanced a few steps, when they bowed again and finally halted near the foot of the throne, bowing a third time. As soon as they had taken their places, the Russian minister read an address which the interpreter, standing behind them, translated into Chinese. When this was over all the ministers advanced one step and placed their credentials upon a yellow table at the foot of the throne, bowing once more as they did so. As the letters were laid upon the table the emperor leaned slightly forward as in acknowledgment of their reception, and Prince Kung, falling on his knees, was commanded by the emperor, who spoke in Manchu in a low voice, to inform the foreign ministers that their letters of credence

had been received. The prince then arose, descended the steps and, advancing a short distance towards the ministers, repeated what had been said to him. Then he reascended the platform and falling on his knees was again addressed by the emperor. On rising he once more came down the steps, advanced to the dean of the diplomatic body and said that His Majesty trusted that the emperor, kings and presidents of the states represented were in good health and hoped that all foreign affairs would be satisfactorily arranged between the Tsung-li Ya-mên and the foreign ministers. With this the audience ended, and the foreign ministers, retiring backwards, made three bows in the same manner as on entering the hall. They returned again for a short while to the Shih-ying kung, and were escorted back to the gate where they had left their sedan-chairs and foreign retinue, in the same manner as on their arrival; and so this memorable audience came to an end. There were, however, still further concessions to obtain from China, though of minor import; they were soon to be secured.

On the 12th of January, 1875, the emperor Tung-chih "departed on the long journey on the dragon chariot and became a guest on high." In 1888 his successor, the present reigning emperor, attained his majority and assumed personal control of the state. In the latter part of 1890 he issued a decree stating that he would receive the foreign diplomatic representatives for the purpose of their presenting their letters of credence, and that the audience would be held in like manner to that given in 1873.<sup>1</sup>

Immediately the diplomatic corps held several conferences to determine what action should be taken in regard to the audience now offered them by the emperor, and what points they could gain, so as to make it conform more closely with Western precedents and usages. Long lists of points to be raised in discussing with the Chinese Foreign Office the details of the audience were drawn up, protocols, *aide-mémoires*, memoranda and notes were sealed, signed, delivered and—pigeon-holed. The outcome of two months of discussion was that on the 5th of March, 1891, the diplomatic representatives of ten of the treaty powers were received in the same out-of-the-way Tzū-kuang Ko, against which they had strenuously objected, and of which one of the foreign ministers had said,<sup>2</sup> that "it had rightly or wrongly a very bad name, and not only foreign, but also Chinese, public opinion had pointed to the use of that place as one of the principal reasons why the audience of 1873 had not been considered a success."

Exactly the same ceremonial was followed in introducing the

<sup>1</sup>*Foreign Relations of the United States for 1891*, pp. 356 *et seq.*

<sup>2</sup>*Foreign Relations of the United States*, 1891, p. 384.



ministers to the reception hall as in 1873, and the same long hours of waiting ensued, just as in the days of Ismailoff in 1720 and of Low and his colleagues in 1873. The only material progress made was that instead of placing the letters of credence on a table at the foot of the imperial throne, as was done in 1873, they were placed by the president of the Chinese Foreign Office, *standing* and not kneeling, on a table so close to the emperor that he could take them in his hand if he chose to do so. And with this the envoys were "highly satisfied," and considered that "substantial progress had been made in the eighteen years that had elapsed since the last audience," and that what Mr. Low had said of the epoch-marking audience of 1873, that "their arduous and lengthy discussions had forced China to take a more important step in advance than she had ever done before, except when compelled by force of arms,"<sup>1</sup> was even truer of the audience of 1891.

As to the other concessions, that separate audiences were to be henceforth granted upon the arrival or departure of a minister, and general audiences to the whole diplomatic corps on stated occasions, these were more apparent than real; the principle of separate audiences had been fully acknowledged by China in 1873, when the Japanese ambassador and the French minister were received separately by the emperor, and also in 1874, when audiences were granted to several foreign diplomatic representatives, among others the United States minister, Mr. Benjamin P. Avery.<sup>2</sup> All this was now a matter of little importance to the Chinese, who, after a fight waged for at least ten centuries, had lost the only point worth contending for, when in 1873 they allowed the representatives of foreign powers to dispense with the time-honored kotow.

In the early part of 1894 several of the foreign ministers were received by the emperor in a hall specially built for the purpose and called the Cheng-kuang tien, though still outside the palace precincts; but on the 4th of November of the same year audience was finally promised them within the sacred precincts of the imperial palace (Ta nei), but only then as "an act of grace," that they might present to the emperor the letters of congratulation addressed to him by the various heads of foreign states on the sixtieth anniversary of the empress dowager. And with this concession the long, long fight was ended, the Westerners had scored a second and final victory, and the audience question was a thing of the past.<sup>3</sup>

WILLIAM WOODVILLE ROCKHILL.

<sup>1</sup>*Foreign Relations of the United States*, 1891, p. 374 et seq.

<sup>2</sup>*Foreign Relations of the United States*, 1875, pp. 228-234.

<sup>3</sup>On the kotow question, see Léopold de Saussure, *La Chine et les Puissances occidentales*, Genève, 1894.

## THE PROPRIETARY PROVINCE AS A FORM OF COLONIAL GOVERNMENT

### I.

It was natural that English merchants and those who were connected with them should select the corporation and adapt it in the seventeenth century to the purposes of colonization. It was a form of local and subordinate government which had long been in existence and which easily lent itself to plans of colonial extension and development. Some of the notable results which followed its utilization in this sphere have been described in another place.<sup>1</sup> It is my purpose in this and the articles which shall follow to attempt, though it must be in an imperfect manner, to show what use was made of the fief, another form of subordinate government, in the process of Anglo-American colonization. With the organization and working of this the landed proprietor was as familiar as was the merchant with the corporation. The county was in form analogous to the fief and, especially when we include Continental history in our view, the development of the two appears most intimately connected. County government was and had been of old a favorite sphere of political activity for the English knighthood and nobility. Therefore when they, or when the king, who was also a territorial lord, undertook the work of colonization, the county presented itself to them as an institution which might properly be utilized for the purpose. But the county which was first selected by the proprietors for imitation on the new continent, was not one of those which existed in the interior of the kingdom, and whose activities had therefore been wholly subordinated to national ends. It was a border county, one of the marches, institutionally a lineal descendant of the marks which had been created by Charles the Great in the outlying regions of his empire for the purpose of defence. William the Norman had in part acknowledged the existence of such an institution and in part reproduced it on the borders of his kingdom of England under the name of the county palatine. In the seventeenth century the same institution was again reproduced with modifications on the western marches of the English maritime empire, and there became the American

<sup>1</sup> See my articles on the Corporation as a Form of Colonial Government in the *Political Science Quarterly* for June, September and December, 1896.

province. It was a county, but one of a very peculiar sort, with a more elaborate internal organization and stronger tendencies toward independence than the central counties of the kingdom possessed. The nature of the American province can be understood only after a study of its English progenitor.

Speaking in general terms, the palatinate or county palatine was the most independent and self-centered of English fiefs. Of those originally created two, Chester and Durham, survived at the time when the American colonies were founded. Save the duchy of Lancaster, which was created by act of Parliament, the counties palatine legally originated in royal grants, though in most cases powers had previously accumulated in the hands of the lord which formed the basis and justification for the grant. The grantee of the palatinate was usually an earl, but his powers were far superior to those regularly associated with that dignity, and he was the official head of the county from which his dignity was named. The head of the palatinate of Durham was always a bishop, sat among the bishops in the House of Lords and ranked next after the bishop of London; but like the other members of his order he held *sicut baroniam*. The county palatine was a great crown fief of the nature of those which existed in France and Germany, and its lord was one of the most powerful of the tenants in chief. In Chester the earl was said to hold by the sword as freely as did the king by his crown. Coke affirmed that the name county palatine was given not "in respect of the dignity of an earl, but . . . because the owner thereof, be he duke or earl, hath in that county *jura regalia*, as fully as the king had in his palace."<sup>1</sup> The authority of counts palatine he called "king-like." Viner carries the analysis a step further when he says that the royal rights consisted of jurisdiction and seignior.<sup>2</sup> "By reason of his royal jurisdiction," says Viner, "he (the count palatine) has all the high courts and officers of justice which the king has; and by reason of his royal seignior he has all the royal services and royal escheats which the king has." The true analogy then is that between the count palatine and the king, rather than one between the earl and the head of the palatinate.

In the language of the lawyers the powers possessed by the counts palatine were the inferior regalities, powers, that is, which were regal in kind, but inferior in degree to those held and exercised by the king. They were in nature territorial and governmental. Prior to the statute *quia emptores* the right of subinfeudation within the county was unlimited. Subsequent to that statute the count

<sup>1</sup> Coke, *Fourth Institute*, edition of 1809, p. 204.

<sup>2</sup> Viner, *Abridgment*, VI., p. 274.

palatine could create no new fiefs, but he was entitled to all the feudal services due from his tenants as they then existed, and to the possession of mines, wastes, forests and chaces.<sup>1</sup> He had also large private domains. On the governmental side his franchise included the right to hold courts of chancery, exchequer, admiralty, wards and liveries, and to hear in them all varieties of pleas, including pleas of the crown; to appoint chancellors, constables, stewards, chamberlains, judges, justices of the peace, sheriffs, coroners, escheators, with powers similar to the king's officers in the realm; to issue writs, precepts and commissions in his own name; to impress ships and call out his tenants in military array; to coin money, establish ports, markets and fairs, grant letters of incorporation and charters of privileges; to create palatine barons and hold councils in the nature of parliaments; to levy aids and subsidies.<sup>2</sup> The count palatine of Chester held a local parliament, which probably consisted of eight lay and eight spiritual barons.<sup>3</sup> From this it appears that originally within the county palatine a very complete system of government of the feudal type was maintained. It was an *imperium in imperio*, the existence of which could be justified from the national standpoint only by the exigencies of border defence.

As the count could try and punish all crimes, even treason and felony, so he might pardon the same. He was then the keeper of the peace of the palatinate, and trespasses and other offences were said in Durham to be committed *contra pacem episcopi*.<sup>4</sup> The only one of the royal writs which originally ran into the counties palatine was the writ of error. Transitory actions might, according to the general principle covering them, be tried in an adjacent county, but all other civil suits in which both parties involved were tenants of the count must be tried in the palatinate. But by the legislation of Henry VIII., occasioned partly by the Pilgrimage of Grace, the judicial powers of the counts palatine were seriously curtailed. By this<sup>5</sup> it was provided that thenceforth all writs, original as well as judicial, should run into these liberties, as they did elsewhere in the kingdom; that indictments should be in the name of the king; that the king should appoint justices of oyer and terminer, of the peace, of assize, and of jail delivery in the liberties, and that all statutes made concerning sheriffs and under-sheriffs should be in force against the stewards and other similar officers of the counts pala-

<sup>1</sup> Surtees, *History of Durham*, I. 16, 34, 46.

<sup>2</sup> Hardy, Preface to *Registrum Palatinum Dunelmense*, Rolls Series.

<sup>3</sup> Ormerod, *History of Chester*, I. 51 *et seq.* Stubbs, *Const. History of England*, I. 364, n.

<sup>4</sup> Viner, VI. 573, 575, 576.

<sup>5</sup> 27 Henry VIII., c. 24.

tine. Thus the king became the keeper of the peace in the palatinate. In the same reign representatives were first summoned from Chester to attend the House of Commons, though Durham remained legally free from that obligation till 1675.<sup>1</sup> When the counties palatine came to be represented in Parliament the system of taxation existing in the realm was extended into these liberties and thus all except the shadow of former independence disappeared. Though no record appears of serious or continued opposition to the rule of the counts palatine on the part of their own tenants, since the cessation of border wars the growth of national unity has proved an irresistible foe to the continuance of special jurisdictions except in cases where location, race or culture have made their survival a necessity.

When the earliest charters for the purposes of discovery and settlement were issued by the English crown the fief was chosen as the model for the grants. The charter which was granted in 1497 to John Cabot and his three sons provided that they should subdue and possess the territories they discovered as the "vassals and lieutenants" of the king.<sup>2</sup> From this the second patent, issued the next year, did not essentially differ.<sup>3</sup> By the charter of 1502 issued to Hugh Eliot, Thomas Ashurst and others the grantees were empowered to occupy the territories they should discover as vassals of the English crown.<sup>4</sup> The lands which it was expected Sir Humphrey Gilbert would discover under the patent of 1578 were to be held by homage as a royal fief, but all services were to be discharged by the payment of one-fifth of the gold and silver ore found in the soil.<sup>5</sup> Authority to settle and govern the territories was also given in ampler form than in any earlier grant. The patent issued in 1584 to Sir Walter Raleigh was an almost exact reproduction of that granted to Gilbert six years before. It therefore appears that the fief suggested the form of organization for which the English government provided in the grants which it made to the discoverers of the Tudor period. Raleigh's settlement at Roanoke was a rudimentary proprietorship, the grantee being the proprietor and tenant in chief of the crown. The only corporation which was created for purposes of discovery seems to have been the Colleagues

<sup>1</sup> Durham was represented in the three parliaments of the Protectorate. Surtees, I. 106.

<sup>2</sup> Hakluyt, *Collection of Voyages*, III. 26.

<sup>3</sup> Biddle, *Life of Sebastian Cabot*, Appendix.

<sup>4</sup> Rymer, *Fœdera*, VIII. 37.

<sup>5</sup> Hakluyt, III. 174. This commutation transformed the tenure practically into one of socage, even though the oath of homage continued to be taken. Pollock and Maitland, *History of English Law*, I. 286.

of the Fellowship for the Discovery of the Northwest Passage, of which Adrian Gilbert was the most prominent member, and which received its charter in February, 1584.<sup>1</sup>

When in the seventeenth century the planting of colonies was successfully begun, the work was undertaken by proprietors oftener than by corporations. That this indicates a preference of the government for the proprietor over the corporation resident in England, as an agent for colonizing purposes, it would be rash to affirm. In that age of dawning industrialism it was easier to found a proprietorship than to establish a corporation. The initiative of a single individual, be he courtier or idealist in government and religion, would suffice for the former, while the members of a corporation, with the capital they contributed, could be brought together only as the result of a prolonged effort. Oftener than otherwise the proprietary grant was an expression of royal favor which implied nothing except reward for services rendered by the patentee. Only four corporations resident in England were founded for the purpose of establishing colonies on the American continent, and these, with one exception (the Georgia trustees), came into existence prior to 1630. Six more or less permanent proprietorships were established directly by the king—Nova Scotia, Maryland, Maine, New York, Carolina and Pennsylvania. Of these all that proved of lasting importance, save one (Maryland), were founded during the period of the Restoration. Many sub-fiefs were also granted by the corporations and the proprietors, but these often had a brief and always a very imperfect existence, and call for no special attention at this time. But in the multiplication of grants in this form we discern no tendency of the proprietorship as such to supplant the corporation. Of the tendency of the royal province to supplant both the proprietary and the corporate grant there is abundant evidence, but this indicates a growing dislike on the part of the crown for colonization through agencies of any form.

When a proprietary province was created, the governmental machinery of the palatinate was not removed into America, as was done in the case of the corporation of Massachusetts. That would have been useless, to say nothing of its impracticability, for, in the case of the proprietorship, the grantee was a natural person, and the form of the province could not be affected by the place of his residence. Its organization would be the same, whether he resided in England or in the territory which had been granted to him. The spirit also in which the powers of the proprietor were administered would not necessarily be modified to a great degree by his residence in the

<sup>1</sup> Hakluyt, III. 129.



province. As a matter of fact the American proprietors often spent part of their time in their provinces and part in England. When in their provinces it would be less easy to reach them by writ than if they were in England; but power was transmitted, held and exercised in the same way, whatever might be the place of residence chosen by the proprietor. The proprietary grants, then, were imitations, so far as circumstances permitted, of the palatinates of England, and particularly of the county palatine of Durham. That this is true will be made evident by an examination of their charters and of the powers exercised under them, and by the further consideration that the remoteness of these grants from England would have made them in effect palatinates, had they not been originally such in both form and name.

By the Maryland charter, which shows as distinctly as any the characteristics of this form of grant, the patentee, his heirs and assigns were given all and as ample rights, jurisdictions and immunities within the limits of the province as were or had been enjoyed by any bishop of Durham within his bishopric or county palatine. This also is the meaning of the statement that Lord Baltimore and his heirs were made "the true and absolute lords and proprietaries" of the region. The territory granted was moreover expressly made a province, a name was given to it, and it was declared that it should be independent of all other provinces. The fact that the grant was made to Lord Baltimore, his heirs and assigns, shows that it was an heritable fief, with power of alienation in the grantee. It could be leased, sold, or otherwise disposed of, like any estate of land; and in the case of other proprietary grants such transfers were common. It was provided that the proprietor, though tenant in chief, should hold by socage, paying annually a nominal rent to the king. The province was made subject to the king's sovereign control, and all its inhabitants were his liegemen. They retained the right to buy, receive and hold lands, and in correspondence to this the proprietor was empowered to grant or lease the lands of the province to settlers in fee simple or fee tail. The operation of the statute *quia emptores* within the province was suspended, so as to admit of subinfeudation, and in addition it was expressly provided that grants should be held of the proprietor and not of the king. Upon the estates thus bestowed, power was given the proprietor to erect manors, with manorial courts and view of frankpledge. These were the seignorial or territorial rights and powers, so far as they were expressed in the charter. Connected with them more or less closely was the right to transport colonists and goods to the province and to carry on trade with them. In the exercise of this power harbors were to be

erected, where exclusively the business of import and export should be carried on, while taxes and subsidies imposed at the ports were reserved to the proprietor.

But governmental powers, or the minor regalities, were also bestowed on the proprietor in full measure. He was authorized to legislate through an assembly of the freemen concerning all matters of public interest and private utility within the province. The laws thus passed should be published under the proprietor's seal, and executed by him on all inhabitants of the province, and all going to or proceeding from it either to England or to foreign countries. The right to issue ordinances was bestowed in such a way as to supplement the legislative power and, under the general limitations specified in the act 31 Henry VIII., c. 8, concerning proclamations, was to be used for the preservation of the peace and the better government of the people, when there was not time to call the deputies together. The proprietor was given authority to inflict all punishments, even to the death penalty (*haute justice*), and to pardon every crime which he could punish. As the statute of Henry VIII. limiting the independence of the counts palatine did not extend to the plantations, Baltimore was empowered to establish courts and appoint all officers, judicial and other, who were necessary for the execution of the laws. He was also given the right to bestow titles of honor, erect towns and boroughs, and incorporate cities. The powers of a captain-general were given him, with authority by proper means to arm and train the inhabitants and lead them in defensive war. Closely connected with this was the right to execute martial law for the suppression of rebellion. The advowson of churches and chapels, the right to found these and to cause them to be consecrated according to the ecclesiastical laws of England, was also bestowed. The language used apparently excluded the consecrating of other than Anglican churches. The organization of the government was left wholly to the proprietor. The only limitation on the legislative and ordinance powers was that the enactments and orders issued should be consonant to reason and as agreeable as might be to the laws and rights of England. No provision was made for the submission of the acts of the legislature to the king, or for appeal to the English courts, though cases could probably be removed into those courts under the forms and conditions which of old had applied to the palatinates. Moreover, the right to hear appeals exists by virtue of the sovereign power of the crown, and the right to claim its advantages belongs to the subject by common law. Finally, following in the strictest manner the principle of immunity, the king expressly renounced the right to levy taxes upon the province. He

declared that he would not levy any tax or contribution on the persons, lands or goods of its inhabitants, either in the province or in the parts of the same. So far as American charters are concerned, this feature of the grant is unique.

In their provisions the charter of Maine and that of Carolina, save in the point last mentioned, differ only in slight details from the Maryland patent. The Carolina charter provided for a board of eight proprietors, but as they were not incorporated no regulations as to the way in which they should hold their meetings appear. In the grant of Maine to Sir Ferdinando Gorges the way was left open for the proper exercise of royal control by the provision that in matters of government the province should be subject to the regulations issued by the Commissioners of Plantations. By implication in the Carolina charter the right of the colonists to appeal to the English courts was guaranteed in the clause providing that they should not answer in any courts outside the province, except those of England. Each charter also had special provisions concerning religion, and to an extent also concerning trade, but these are not directly in the line of the present discussion. The charter of New York was brief, but it contained the salient features of the palatinate. It made express provision for appeals, but included no reference to a legislature. The bishop of Durham is not mentioned in any of the patents which were issued subsequent to the Restoration.

The charter of Pennsylvania was granted late, after some of the defects in the proprietary system had begun to appear. These arose from the difficulty of enforcing royal control, so as to secure the trade interests of the mother country and the defence of the empire. Hence the points in which Pennsylvania's charter differs from the earlier patents have reference mainly to relations with the home government. The right of the inhabitants of the province to appeal to the king was expressly guaranteed. It was provided that, within five years after their passage, all acts of the general assembly should be submitted to the king in council for his acceptance or rejection, and if they were not rejected within six months after presentation they should stand. The reasons, so far as mentioned, which should justify rejection were inconsistency with the lawful and sovereign prerogatives of the king and with the faith and allegiance due to the government of the realm. The proprietor was also required to keep an agent resident in or near London, so that he might appear at courts to answer any complaints against the proprietor and pay damages. If for one year there should be no such agent, or if for a year he should neglect to answer for penalties, it was declared lawful for the crown to resume the government of the province and

keep it till payment should be made. The king also agreed to levy no tax on the province without the consent of the proprietor or chief governor, the consent of the assembly, or by act of Parliament. Thus the possibility that Parliament might tax the colony was clearly recognized. This group of provisions gives a completeness to the Pennsylvania grant, so far as relations to the home government are concerned, which appears in no other charter. Such being the case, there was no need of specifically guaranteeing to the colonists the rights of English subjects. Finally, the absence of any clause authorizing the bestowment of titles of nobility is suggestive of the political views of the Quaker proprietor.

From the analysis of the charters which we have now completed, it follows that the proprietary province was a large fief carved out of the royal domain across the sea. The proprietor, whether a single person or a board of grantees, held both territorial and governmental powers. These, like the powers held by the counts palatine, were regal in their nature. This means that the institution was essentially monarchical in character; that the province was a miniature kingdom of a semi-feudal type, and the proprietor a petty king. Authority proceeded from above downward, rather than from below upward. To be sure the powers which the proprietor exercised were not sovereign, but, as Coke said, they were king-like, and were used in the same way as if they had been sovereign. In every proprietary province, as in the county palatine, we find, on a small scale and with modifications, a reproduction of the governmental forms and usages of the kingdom of England. The proprietor was the grantee of power, and all was derived through him. However intimate might be his relation to the province, he could never lose his identity and become merged in it, as was the case with the corporation when it was removed into the colony. He always remained distinct from the province in the same sense as that in which the king is distinct from the kingdom. He held strictly by hereditary right, and the powers to which he was entitled were not derived from the province or its inhabitants. The latter were not the grantees, as might be the case with the corporation, and therefore could neither hold nor exercise political rights except as the result of concessions made by or through the proprietor. The proprietor, and not a general court or general assembly, was the origin and centre of the provincial organism.

The province then was not democratic, and if it remained true to its essential nature it could not become so. But its nature could be obscured and changed; as an institution it could be democratized by the development within it of elements of a popular character and by their encroachment upon the powers of the proprietor.

The legislature might gradually limit or draw to itself the powers of the executive, and thus come to exercise a controlling influence. English institutions in their growth since the Norman period have passed through a development of that nature; and in the American provinces an analogous process may be seen at work, though in them the time required for its unfolding was much shorter than in the parent kingdom. The history of the American provinces is emphatically the history of the adaptation of English institutions to the conditions of life on a newly settled continent. There the tendencies favorable to the democratic element in the constitution of the provinces were stronger than they were in England prior to the close of the eighteenth century, while the obstacles to its development were less powerful than in the mother country. Through migration to the New World, the bonds of custom were relaxed and freer scope was given to innovation. Those who became colonists came largely from the classes which were least wedded to the aristocratic and monarchical institutions of the Old World. The political and social privileges which were attached to landholding in England could never be reproduced in a new country and under an exclusively socage tenure. There was necessarily far less social inequality in the colonies than in old countries, and the proprietor could scarcely hope that an aristocracy would develop and become a support for his power. So sparsely were the colonies settled that large estates, even where they existed, had relatively few tenants, and hence yielded only a small income. The proprietor, with his hundreds of thousands of acres, might be and often was land-poor. He moreover possessed none of the dignity which belongs to the office and title of king. He himself was a subject, and, whether peer or commoner, inviolability attached to his person in no higher degree than it did to any of his class among the population of England. The church could awaken for him only the respect which attaches to magistracy. The proprietor also, in any struggle upon which he was forced to enter for the maintenance of his claims, could command only the resources of a single family or group of families. Sometimes these resources were pitifully small, and were even the subject of litigation in the bankruptcy court. In any event they were likely to be too limited to admit of great displays of political energy, to say nothing of military power. These are all causes and tendencies which facilitated the democratizing of the American province, which made the process shorter and more certain of ultimate success than in the European kingdom. But it took the entire colonial period of our history and a revolution at its close to complete this course of development, and thus to transform the province

into the democratic commonwealth. A transformation which in the case of the corporate colony was virtually effected by a single act required for its completion in the province a century and a half. This of itself is adequate proof of the radical difference between the two forms of colonial government which we are studying. The province could not be democratized till the proprietor was gotten rid of, and that object was not attained till independence of England was declared.

If the view here presented be true, the internal history of each of the provinces, royal as well as proprietary, will reveal a prolonged struggle for the ascendancy between the monarchical and the democratic elements in the system, elements represented by the proprietor and his governor on the one hand and usually by the lower house of the general assembly on the other. This struggle, while assuming in each colony certain distinct and peculiar phases, at the same time exhibits characteristics which are common to them all. The province was not structurally harmonious and self-consistent, as was the corporate colony. The discordant elements within it were therefore continually struggling for ascendancy. It is through a broad and thorough study of this conflict that we shall discover the main trend of events within the provinces themselves, and at the same time note the preparation of the forces which were largely to occasion the revolt of 1776. Adopting this as the correct point of view, it will now be my purpose to show what the proprietary province was at the beginning and how it was started on the course of its development. To the proprietor trade was a minor object, and in this connection can be safely disregarded. The powers and rights the exercise of which were deemed important, and which give character to the system, were of two sorts, territorial and governmental. Under these two heads the subject will be treated, and throughout the remainder of this article the reader's attention is invited to a brief consideration of the proprietary land system.

That in the study of the American province the land system holds a position relatively as important as that which properly belongs to it in the treatment of the medieval kingdom or fief, no one would claim. In the typical medieval fief landholding determined the form and character of the military system, and out of or in connection with it developed the aristocratic institutions in both church and state which are so peculiar to the Middle Age. The forms then assumed by society and government in all phases of their development were influenced, if not determined, by the system of landholding. It would have been legally possible, when the earliest American provinces were established, to have attached to the grants all the



conditions of the military tenure ; but such a course would have been inexpedient and, if persisted in, disastrous. Prolonged internal peace, with commercial and industrial development, had made that tenure obsolete in England. Before the later provinces were founded it was abolished by law. Both the existing situation and the necessary conditions of future prosperity in the colonies were recognized, when the manor of East Greenwich and the castle of Windsor were selected as the types which should be reproduced in the territorial system of the new continent. As this was done in both the corporate and the provincial grants, the universality of the socage tenure in English America was insured. The obligations of this were fealty and rent,<sup>1</sup> and its liability that of escheat. It was a non-military tenure, free from the oppressive feudal obligations, and adapted to a peaceful agricultural community. When the introduction of the socage tenure was followed by the immediate abandonment in many of the colonies, and the ultimate abandonment by all, of primogeniture as the rule governing the descent of land, the foundation upon which a territorial nobility could develop or rest was removed. Therefore the fief with which we have to do in American history is imperfect, so to speak, diluted, has lost its most salient and important features.

And yet the American province was a fief<sup>2</sup> and the socage tenure feudal in its chief characteristics, and if this fact be neglected, not only shall we lose the correct point of view, but it will be impossible properly to understand many of the facts of our early institutional history. In order not only to theoretical completeness, but also to the attainment of satisfactory practical results, the territorial and governmental history of the provinces must be studied side by side and the interaction of the two noted. Reference can here be made to only a few prominent facts which such a treatment of the proprietary province will reveal.

By the proprietary grant an estate of inheritance, descending to heirs, was created ; the land granted through a charter of incorporation passed to successors. In the latter case inheritance in the proper sense of the word was impossible, and therefore the territorial unity of the colony was insured against peril from that quarter. As long as the corporation continued the colony could not be divided or the continuity of its existence broken by a sudden change of owner or rulers. From the outset then in the corporate colony there

<sup>1</sup> Blackstone, *Commentaries*, Bk. II., c. 6. Digby, *Law of Real Property*, p. 49. Fowler, *History of Real Property in New York*, p. 38.

<sup>2</sup> On the feudal nature of this form of grant, see case of *Ingersoll vs. Sergeant*, Wharton's *Pennsylvania Reports*, I., pp. 346 *et seq.* Sharswood, *Lectures Introductory to the Study of the Law*, Lect. VIII. Mayer, *Ground-rents in Maryland*.



is a suggestion of the territorial as well as of the political unity of the modern state. This also applies to the colonies which were founded by the corporations resident in England. But the proprietary province was subject to the conditions of natural inheritance, testate and intestate, and to all the possibilities of change and multiplication of owners involved therein. Moreover the possessions of proprietors were more likely to be sold or leased than were those held by corporations. In other words the proprietary province was treated as an estate of land. It was a vast tenement which the grantee did or might sell, mortgage, lease, devise, or convey in trust, as he would a farm or a homestead. In 1635 John Mason devised by will all his estates and rights in New Hampshire, with certain exceptions, to his grandson, John Tufton, and his lawful heirs, or, in defect of these, to Robert Tufton, another grandson, and his lawful heirs, or, in defect of these, to his cousin, Dr. Robert Mason, and his heirs male. Other conditions were also attached, as that the widow of John Mason should enjoy the revenue of the estates during her life, or until the devisee came of age.<sup>1</sup> By this will New Hampshire became an entailed estate, and in course of time the legal complications usually attendant on that form of settlement arose, and added to the confusion caused by the boundary disputes and by the doubts concerning the origin of John Mason's title.<sup>2</sup>

The Duke of York in 1664 sold New Jersey to Lord Berkeley and Sir George Carteret, and the sale was effected by deeds of lease and release.<sup>3</sup> By that act the province which the duke had just received from the crown was divided, and his territorial rights over a part of it went to the purchasers. But this was only the beginning of the process of subdividing the territory thus granted between the Hudson and the Delaware. About ten years later Berkeley sold his undivided half of New Jersey to John Fenwick in trust for Edward Byllinge, and by later conveyances on the part of Byllinge, three others, including William Penn, were added to the number of trustees. In 1676 Carteret agreed with Byllinge and the three trustees to a division of the province, and under the terms of the Quintipartite Deed what had been Berkeley's undivided half became West Jersey, though now with three active proprietors of its own.<sup>4</sup> Later, to encourage settlement, the proprietors divided West Jersey into ten parts. One of these went to Eldridge and Warner, who had been

<sup>1</sup> Tuttle, *Captain John Mason* (Publications of the Prince Society), p. 404.

<sup>2</sup> *New Hampshire Prov. Papers*, Vols. I. and II. Belknap's *History of New Hampshire*, I.

<sup>3</sup> Leaming and Spicer, *Grants and Concessions*, p. 8. *New Jersey Archives*, I. 8, 10.

<sup>4</sup> Leaming and Spicer, pp. 64, 65. *Archives*, I. 232, 326. Smith, *History of New Jersey*, 83, 89, *et seq.* Byllinge had an equitable interest in the province.

grantees of Fenwick. The nine parts which remained in the possession of the trustees, each of which was called a propriety, were opened for settlement. One of these tenths was taken up by a company of Quakers from Yorkshire, another by a similar body from London. Some of Byllinge's creditors also took shares, but these were bought out by Daniel Coxe, who soon became the largest proprietor in West Jersey.<sup>1</sup> As all grantees retained a joint interest in the enterprise, the number of proprietors became so large that they could not easily meet for the transaction of business, and in 1687 a council of eleven annually elected members was created for this purpose. From that time the territorial affairs of West Jersey were managed by a Council of Proprietors.

Meantime a similar process of subdivision had been going on in East Jersey. By the will of Sir George Carteret all his property in that province was devised to six trustees to be held by them for the benefit of his creditors.<sup>2</sup> After repeated attempts at private sale the proprietorship was put up at auction and bidden off by William Penn and eleven associates for £3400. Their deeds of lease and release were dated February 1 and 2, 1682. Subsequently each of the twelve sold one-half of his undivided share to a new associate, making in all a board of twenty-four proprietors for East Jersey. In 1684 those of the number who were resident in the province were empowered to act on behalf of all the proprietors and with the governor in granting lands and settling disputes with planters. These soon became known as the Board of Proprietors of East Jersey, and continued to have the chief management of the territorial affairs of the province.

In 1708 William Penn mortgaged Pennsylvania to Henry Gouldey, Joshua Gee and several others in England for £6600. When in 1718 Penn died the mortgage had not been entirely paid off. In his will he devised the government of the province and territories to the Earls of Oxford, Mortimer and Poulett and their heirs in trust, to dispose thereof to the queen or any other person, as advantage should dictate. To his widow and eleven others, part resident in England and part in America, he devised all his lands, rents and other profits in Pennsylvania, the territories, or elsewhere on the continent, in trust to sell or otherwise dispose of enough to pay his debts. Of that which remained, all, except 20,000 acres, should be bestowed by the trustees on the three sons of the founder by his second wife, John, Thomas and Richard Penn.

<sup>1</sup> Smith, pp. 80, 130, 191, 199. Woodward and Hageman, *History of Burlington and Mercer Counties*, pp. 7-12, 110.

<sup>2</sup> Whitehead, *East Jersey under the Proprietors*, p. 101 *et seq.*

All the personal estate and arrears of rent he gave to his wife for the equal benefit of her children, and he made her sole executrix. As, after his father's death, William Penn, Jr., the heir-at-law, claimed the government of the province, some delay arose, resulting in a suit in chancery. It was, however, finally decided that the sons by the second marriage should inherit both the territorial and the governmental rights as designated in the will.<sup>1</sup>

By transfers and the process of natural inheritance, the personnel of the board of Carolina proprietors had been totally changed, and in the case of some seats repeatedly so, when, in 1729, the act of Parliament was passed establishing an agreement with seven of their number for the surrender of their title and interest in the province to the crown.<sup>2</sup> The share of the Duke of Albemarle and that of the Earl of Shaftesbury were in the hands of trustees, while there were three claimants of the estate of Lord Berkeley. Here, as in the case of other provinces with multiple proprietors, the colony might, upon agreement, have been divided. The undivided shares might at any time have become divided shares. That the single proprietor could do the same has been shown by reference to the origin of New Jersey. That this did not occur in the history of Maryland is due to good fortune and good management. In the American proprietary provinces there was the same possibility of the indefinite subdivision of territory which in the Middle Age we find working itself out in the states of continental Europe. It follows, then, that the territorial integrity of the proprietary province was not effectively guaranteed. Reference has already been made to the distinction between it and the corporate colony in this respect. Of the royal province at any time there could never be more than one proprietor, the occupant of the throne. It was subject only to the vicissitudes accompanying the inheritance of that dignity. But in the history of the proprietary provinces we observe all the changes of ownership and modes of transfer which appear in the case of private estates of land.

That on its territorial side the province was such an estate may be shown even more clearly by a further consideration. Unlike the grantees of the corporate colonies, to an extent also unlike those colonial corporations that were resident in England, the proprietor was especially desirous so to manage or dispose of his land as to secure from it a revenue. This was perhaps the main object which he had in view when he undertook the work of colonization. It seemed far more important to him than did trade, while, with the

<sup>1</sup> Proud, *History of Pennsylvania*, II. 115-124.

<sup>2</sup> *N. C. Col. Rec.*, III. 34 *et seq.*

exception of Penn, none of the proprietors were in any sense idealists. Therefore he carefully granted the land of the province subject to a rent, and provided for its regular collection. The grant of land by the proprietor took in each case the feudal form; it was not an allod, but a tenement, as were all estates in England. In the province, then, as in England, the relation of lord to tenant existed, and tenure became an element of importance in the social system. That relation was the essence of the proprietorship. This is true in spite of the fact that the military tenure did not exist in the American colonies. The fact that the obligations of socage were fealty and a fixed rent necessitated, when these were enforced, the development of a permanent system of tenant right. Its absence in the corporate colonies is due to the failure of the general court to enforce the payment of the fixed rent, or to introduce clauses requiring this into its land patents. But the proprietors carefully reserved their right in this matter, and continued, as they had opportunity, to enforce it. They acted thus as territorial lords, and collected in the form of quit-rents and fines on alienation a territorial revenue analogous to that which, in the Middle Age, the king and nobles received from their domains. In order to do this they, unlike the general court of the corporate colony, had to institute a system of territorial administration, a provincial land system. Its nature in general may now be briefly indicated.

In all the proprietary charters, save that of New York, the operation of the statute *quia emptores* was suspended, so far as relations between the proprietor and his immediate grantees were concerned. By virtue of this provision each proprietor (or board of proprietors) as mesne lord became the centre from which originated an indefinite number of grants held directly of him, and through him of the crown. The same was true also in New York, although no reference was made to the statute *quai emptores* in its charter.<sup>1</sup>

In the provinces of this class it was left to the proprietor to make grants on such conditions as he chose—limited by the nature of his own patent—to erect or permit the erection of manors, to devise the machinery necessary for surveying, issuing and recording grants and collecting rents. In Maryland and the Carolinas subinfeudation, or

<sup>1</sup>In the Duke's Laws it was provided that former grants should be brought in and new patents taken out "in the behalfe of his Royall Highness the Duke of Yorke." Upon the patenting of land a fee should be paid "in acknowledgment of the propriety of such lands belonging to his Royal Highness James Duke of Yorke." *Charter and Laws of Penn.*, p. 35. In a report prepared in 1670 it is stated that "The Tenure of Lands is derived from his R. H<sup>ty</sup>, who gives and grants lands to Planters as their freehold forever, they paying the customary Rates and Duties . . . ." Gov. Dongan in 1683 was instructed to grant lands under the province seal, reserving a certain yearly rent and service to the duke and his heirs. *N. Y. Col. Docs.*, III. 188, 333.

the creation of mesne tenants within the province, was both possible and legal. Lord Baltimore granted the manor of Kent Fort to Giles Brent and his heirs and empowered them to convey any part of it, except 300 acres reserved as demesne, "either in fee simple or fee tail, for life, lives or years, to be held of him the said Giles Brent and his heirs, as of the manor of Kent Fort, by and under such rents and services as he or they shall think fit."<sup>1</sup> But in the opinion of Kilty subinfeudation in Maryland was not carried so far as greatly to prejudice the proprietor's interests, for all fines on alienation and escheats went to him, though in some cases forfeitures for non-payment of rent or other causes were claimed by the mesne lords. In the Pennsylvania charter a clause was introduced prohibiting subinfeudation within the province. It provided that those who should hold manors might grant parts of these, but "so as no further tenures shall be created," and that the lands so granted should be held of the same lord of whom the alienor held and by the rents and services customary upon the estate.

Preparatory to the exercise of the power thus bestowed in the charters, the proprietors issued so-called "concessions," or "conditions of plantation," stating the terms on which they would grant lands to colonists. As settlement progressed these were modified, either by new concessions or by instructions to the governors. These were not infrequently accompanied by statements of the physical advantages of the country and relations of recent voyages thither, all intended as a form of advertisement for settlers. Lord Baltimore issued conditions of plantation in 1633, 1636, 1641, 1648.<sup>2</sup> As the territories of the Duke of York were to a considerable extent settled when he received them, it was not necessary to advertise for settlers in this way. But in the Duke's Laws provision was made that patents should be renewed and lands held of the proprietor. From the first also grants were made, when applied for, to those who were already colonists or intended to become such. The Carolina proprietors issued concessions in 1633 and 1665.<sup>3</sup> In 1663 they also sent instructions to Gov. Berkeley of Virginia respecting the granting of land on the Chowan river, which were equivalent to concessions; and in 1667 instructions of a similar character were sent to Gov. Stephens of Albemarle.<sup>4</sup> The Fundamental Constitutions, which were issued as an ordinance by the proprietors in 1669, with the intent that they should be accepted by the colonists, and which were afterwards in part enforced through instructions, contained in per-

<sup>1</sup> Kilty, *Landholder's Assistant*, pp. 107, 28.

<sup>2</sup> *Md. Archives*, Council, I. 47, 99, 223.

<sup>3</sup> *N. C. Col. Recs.*, I. 43, 86.

<sup>4</sup> *Ibid.*, 51, 169.

fected form the idea of the proprietors concerning what should be the territorial system of their province.<sup>1</sup> The Concessions and Agreements issued by Berkeley and Carteret for New Jersey in 1665 were a verbatim reproduction in all their parts of the Concessions issued the same year by the Carolina proprietors for their intended settlers at Cape Fear.<sup>2</sup> In April, 1681, William Penn issued his Proposals to Adventurers, and the following July his Conditions and Concessions.<sup>3</sup>

In character and object these documents were very similar. The grants of land offered in them were in general proportionate to the amount invested in the enterprise by the would-be grantee. Discriminations were also made in favor of first purchasers or settlers, and against those who came to the colony after the sufferings and perils of the first year or two had passed. In all cases a quit-rent was imposed, and as this was a rent service it could be collected by distress without definite specification of the right in the deed.<sup>4</sup> Usually also it was required that the grant should be improved and settled within a specified time. In the later Maryland concessions and in those of Carolina and New Jersey the settlers were required to come armed. Apparently in all cases they were required to pay the cost of passage, and in the Carolina and New Jersey concessions of 1665 the condition was attached that each settler should on arrival have, or be supplied with, provisions for six months. So far as appears, no definite limit was placed on the amount of land which might be granted to an individual. The proprietors reserved for themselves territory in various parts of their provinces proportionate in extent to that which they sold or leased. In Maryland these tracts were called "reserves;" in Pennsylvania, "proprietary tenths;" in Carolina, under the Concessions of 1665, "proprietary elevenths," while under the Fundamental Constitutions they were to include one-fifth of the land of the province and to be called the seigniories. Under the Concessions of 1665 the New Jersey proprietors were to reserve a "seventh." The land thus reserved, so far as it was not leased, constituted the proprietary domain,<sup>5</sup> while the part of the province which was not granted or improved might properly be called the waste connected with these vast feudal

<sup>1</sup> *N. C. Col. Recs.*, 187 *et seq.*

<sup>2</sup> *N. J. Archives*, I. 28. Berkeley and Carteret were members of the board of Carolina proprietors. In both the Carolina and the New Jersey editions of these concessions, as well as in the Declarations and Proposals issued by the Carolina proprietors in 1663, and the Concessions issued by the West Jersey proprietors in 1677, a form of government was prescribed and the terms on which land would be granted were specified.

<sup>3</sup> Hazard, *Annals of Penn.*, 516 *et seq.*

<sup>4</sup> Coke on Littleton, C. 12. Mayer, *Ground-rents in Maryland*, p. 15.

<sup>5</sup> Mayer, p. 28.

estates. Finally, in all cases the plan of settlement included a provision for at least one town, lots in which should be granted to those who received estates in the country. Penn issued more elaborate instructions on this point than did any other proprietor.

In the space now at command it would be impossible even to attempt a description of the actual process of settlement in a proprietary province, to show how grants of land were made, usually in rectangular form, along the bank of river or bay, and extending back therefrom in successive tiers. By the use of the land papers of the provinces it would be possible approximately to trace this process, and with it the location of the manors and of the proprietary reserves. The extension of settlement and cultivation, with the relative size of estates, could thus be shown, and data obtained upon which could be based an intelligent discussion of the entire social structure of the province. But of special importance here is the fact that the granting of land and regulating of settlement was wholly a function of the province and not of the town or other locality. It was a characteristic and essential part of the proprietary administration. From it originated a territorial revenue consisting of the quit-rents and, in Maryland at least, of fines on alienation. This belonged to the proprietor as territorial lord. For the granting of land and the collection of this revenue administrative machinery was necessary, such as does not appear in the corporate colony. This, when it took final shape, was known as the land-office. At first in Maryland the governor and secretary had immediate charge of the granting of lands. Under warrants issued from the secretary's office land was surveyed by the surveyor-general and his deputies. Upon certificates of survey returned by them patents were issued under the great seal, signed by the governor and endorsed by the secretary<sup>1</sup> and surveyor-general. At the beginning the governor, alone or in conjunction with the secretary, was the receiver of rents. In 1671 a land-office was established and a functionary known as the register placed at the head. In 1684 a land-council of four—all of them members of the provincial council—was created. To this body was entrusted full control of the surveying and granting of land, and one of its members was made receiver and collector of rents, port-dues and other proprietary dues. Later, in the eighteenth century, elaborate machinery for the collection of rents was devised. In Pennsylvania and Carolina there was a development similar to this, though less systematic. Apparently, also, though owing to the fact that outside of New England almost no town records have been printed one must speak with great caution, the towns in the prov-

<sup>1</sup> Kilty, *Land-holder's Assistant*, 64, 108, 112, 256.



inces were only in exceptional cases village communities. If, as in New England, the grant of town land was made to the settlers of the locality in common, they soon divided it; in the great majority of cases however grants seem to have been made wholly to individuals from the outset. So far as this was true the character of the town in the provinces was different from that in New England.

But, further, the territorial system of the province had indirectly an influence on its political development. The policy of the proprietor toward the province was determined to a large extent by the fact that it was originally his estate, and that from it he expected a territorial revenue. The attitude of the governor and of other officials toward it was modified by the same consideration. On the other hand the colonists, and the assembly which represented them, felt the effect of the same condition. They were the tenants of the proprietor and owed him rents and other dues. Their relations to him were not simply political; they were influenced also by tenure. A part of the proprietary revenue was derived from them by virtue of the conditions of their settlement; the legislature could neither grant nor withhold it. But obstacles of various kinds could be thrown in the way of the collection of quit-rents; the legislature could seek to control the territorial administration by passing laws in confirmation of grants, determining how and when rents should be paid, reorganizing the land-office, taxing proprietary estates. Attempts such as these were made, especially in Pennsylvania, and, when persisted in, resulted in important limitations of the territorial powers of the proprietor. Territorial questions, then, frequently came to have a political bearing, and entered deeply into the struggle between the proprietor and the assembly for the control of affairs within the province. To trace the history of these conflicts at this time would be impossible. But they play a part in the history of all the American provinces which entitles them to the consideration of the investigator. An organic relation has always been held to exist between the land system and the development of government by estates, as it existed in medieval Europe. The military system, the organization of society into classes, and through these classes the character of the financial, judicial and ecclesiastical administration were in the feudal estate largely determined by land and land-tenure. With the disappearance of the military tenure the connection between territorial and political development became less intimate. The absence of a nobility, the general abandonment of the principle of primogeniture as a rule of intestate inheritance, and the operation of various causes practically limiting the size of estates, have strengthened this tendency. But so long as the province, in America and

elsewhere, remained a province, an important connection between the land system and political development continued, and unless the fact is properly recognized the history of that form of colonial government will not be understood or correctly treated.

HERBERT L. OSGOOD.

## EVOLUTION OF THE AMERICAN VOTER

SOME historical scholar, devoted by taste and habits to close research, might well examine the records still accessible of our colonial age, to ascertain the laws and usages which prevailed before the American Revolution in each of the thirteen original colonies concerning the elective franchise.<sup>1</sup> For this is a subject whose exposition must depend, not upon *a priori* reasoning, but upon the facts. So far as the charters of that long adolescent period afford any light they make but three things plainly evident: (1) That voting was common in all these colonies under one reservation or another; (2) that in Rhode Island and Connecticut, under those highly liberal charters from Charles II. which served each state for a considerable space of this nineteenth century after royalty had been abolished, and in Massachusetts, too, under her earliest grants, this elective franchise was largely exercised; (3) that, for most of our colonial period at least, in most of the other colonies the voter's right was usually confined to the choice of local town and county officers and of local representatives in that single popular assembly or legislative branch which resembled the House of Commons in the mother country.

But when we reach 1776, and the era during which these thirteen commonwealths shook off united the British yoke and organized state governments apart, most of the written state constitutions are seen disclosing local predilections attaching to the right of elector. And from that date forward the evolution of the American voter may be fairly traced through a comparative study of these fundamental frameworks. No doubt under the earliest constitutions of such Revolutionary states the franchise was bestowed upon the people in accordance mainly with colonial practice and sentiment. Rhode Island and Connecticut, to be sure, retained colonial charters which left the matter largely to legislative discretion; but the other eleven states established constitutions for themselves. To take the first period of about twelve years which preceded the adoption of our federal constitution (1776-1788), comparison shows a certain homogeneity in the policy of admitting freemen to participate by their votes in a representative and republican state government; while at the same time appeared various points of difference. In general the voter was to be a male resident of the state, at least twenty-one years

<sup>1</sup>Dr. Cortlandt F. Bishop, in his recent *History of Elections in the American Colonies* (III. Columbia College Studies, No. 1), supplies a scholarly essay on this topic.

of age ; and "freeman" or "free white man" was a convenient term to designate him in the written systems of states, nearly all of whom still recognized to some extent the colonial institution of negro slavery. Among such residents or inhabitants the "freeholder," or owner of real estate, was specially favored for the right of suffrage in South Carolina, and further enjoyed peculiar privileges as to certain elections (for instance, in the choice of senators) in Virginia, New York and North Carolina. Other states, though less strenuous as to owning real estate, fixed a property qualification of one kind or another; Massachusetts, under her latest royal charter, and Maryland besides, requiring a voter to own either land or personal property to a stated limit; while the most liberal of Revolutionary constitutions in this respect, those of Pennsylvania and Georgia, conferred the suffrage upon all taxpayers. Sons of freeholders, though not paying taxes at all, had in Pennsylvania a special voting privilege; and Georgia favored all mechanics.

Georgia in her earliest state constitution made a futile effort, after the example of Virginia's legislature, to punish a voter's absence from the polls without good excuse by imposing a penalty. Bribery at the polls was punishable under Pennsylvania's constitution of 1776, yet lightly as compared with that of New Hampshire in 1784, which made conviction of bribery an utter disqualification from office. Under the Revolutionary constitution of New York in 1777 any elector at the polls might be required to take expressly an oath of allegiance to the state. Delaware's constitution forbade soldiers to approach the polls on election day.<sup>1</sup>

As for the appropriate method of voting these early states indicate at once their prior variance as colonies. For the written ballot Massachusetts, New Hampshire, Pennsylvania and Georgia pronounced a preference in their new organic law, while various other states by a more or less positive expression showed adhesion still to the old English mode of an oral or *viva voce* vote. In democracies a written or printed ballot must gain precedence constantly, not only for convenience of proof, but as an essential safeguard to the humbler voter's freedom of expression; yet the oral mode holds close relation with town meetings and local gatherings where courageous neighbors come together and where debate must precede action; for which reason the *viva voce* method held strong ground for such occasions. Connecticut under her charter option kept up that latter mode to a considerable extent in state elections until a constitution was framed, finding it quite a convenience for retaining the older and more influential townspeople in the lead. In Virginia

<sup>1</sup> Poore's *Constitutions*, *passim*, 1776-1784.

and the other states in close affiliation with her this oral expression was vaunted as the privilege of the free-born voter, to show the faith that was in him by an outspoken announcement of his candidate. New York, when the Revolution broke out, wavered between two methods. Her constitution of 1777 recites a prevalent opinion "among divers of the good people" that voting by ballot "would tend more to preserve the liberty and equal freedom of the people" than the prevalent *viva voce* mode; and accordingly the written ballot is therein sanctioned as a novel and experimental substitute, subject to the final discretion of the state legislature.<sup>1</sup>

We now reach 1789 and the establishment of a new and more perfect Union under the federal constitution. The forbearance which the framers of that instrument displayed in leaving the whole delicate regulation of popular suffrage to the several states deserves our lasting admiration. The new system could hardly have been adopted otherwise. As Mr. Bryce truly observes, this Union, so far as the federal form of government was concerned, might have developed into an aristocracy; but state direction and state institutions compelled it to become a democracy. For in the choice of federal representatives to Congress each state has constantly controlled the qualifications of its own electors; while the choice of senators and even of presidential electors has been left to the several state legislatures. All this suited well the temper of confederate states in the eighteenth century, and through the nineteenth results have been on the whole satisfactory. All discussion, all experiment over the extension of the suffrage, has been conducted within state confines, except perhaps as to negro suffrage, which civil war compelled the whole Union to consider as in some sense a national problem. Democracy and manhood suffrage have gradually gained federal ascendancy, through ascendancy in the several states, where regulation is easier and more elastic. And in the meantime the federal example since 1787 of dispensing with all religious or property tests for participation in civil government stirred quickly the states to emulation.

This Federal Union began, in fact, its operations in 1776 as an alliance of states conservative and somewhat aristocratic, for the most part, showing the force of English environment in distrustful qualifications which hedged the individual right to vote. We have seen that there were property tests for electors and candidates; and to some extent there were religious tests as well, though, generally

<sup>1</sup> Poore's *Constitutions, passim*, 1776-1784. Proxy voting, as in private corporations, prevailed very early in Massachusetts and adjacent colonies; and traces of this practice remained in Connecticut's election laws down to the final superseding of her charter in 1819. Bishop's *History of Elections*, pp. 127-139.

speaking, no religious qualification was imposed for mere voters. South Carolina, the one state where caste and cavalier prepossessions stood the strain of democratic innovation down to the defiant strife of 1861, pronounced nevertheless in 1790 state abolition of religious tests for the voter by organic declaration. Kentucky's constitution in 1799 discountenanced religious tests whether for voters or for office-holders, after the example set by the United States. Delaware in 1792 enlarged the franchise so as to embrace every "white freeman" of full age and two years' residence who paid a state or county tax. Tax-paying became by the close of the eighteenth century the usual minimum standard which property qualification had reached, so far as constitutional expression was concerned; yet among the earliest new states Kentucky dispensed with even this before the century ended, as did also Vermont.<sup>1</sup> Maryland in 1810 abolished all former property qualifications, whether for office-holding or for voting, even to the paying of taxes. That the voter should be at least a tax-payer was however much longer insisted upon by most states.<sup>2</sup> South Carolina's constitution of 1790 adhered to the freehold qualification; "five hundred acres and ten negroes," or a real estate valued at £150 sterling clear of debt, was the standard set in her organic law.

Connecticut in her constitution of 1818 stated qualifications of property or militia duty or a state tax payment within a year. Massachusetts, abolishing all freehold or property qualifications for the voters soon after, clung still by the poll tax for a long period of this century. Delaware in 1831 abolished religious and property qualifications, except as to paying taxes. Virginia in 1830 made a technical enumeration as to property, having earlier left the legislature largely to itself. The democratic tendency in the new states before 1830 was towards dispensing with even the tax-paying qualification, thus giving freely the franchise and popular control of government to numbers and not property.<sup>3</sup> New York in 1821 dispensed with her former freehold privileges for voting, at the same time specifying various requisites of taxation or of service in the state militia or among the firemen. During the years 1836-1860 the final abolition of tax-paying as well as of property-holding requirements became very marked in the changed constitutions of the several states. Yet there are states which to this day require the payment of a slight tax in order to vote, while Rhode Island still insists upon a property qualification in some elections.

<sup>1</sup> See Kentucky, 1792, 1799. "Every man" of full age of "quiet and peaceable behavior" who takes the oath to vote conscientiously. Vermont, 1793.

<sup>2</sup> Ohio, 1802; Louisiana, 1812.

<sup>3</sup> See Illinois 1818; Alabama 1819; Missouri 1820.

A buoyant and increasing confidence in the unregulated popular expression at the polls, for city and country alike, seems to have culminated in America about the middle of this century. So far as the white male inhabitants were concerned all constitutional change in the states had hitherto tended so to extend the franchise that the poorest local resident, not a criminal nor a dependent pauper, might readily take part at the polls with those who paid taxes and had a pecuniary stake in the government; while as for bribery and the criminal disqualification not unfrequently denounced in organic law, convictions had been rare and individual disfranchisement by the legislature still rarer. But now the native-born began to feel the evils of an unrestrained democracy, of incongruous migration from foreign lands, and of that organized machine in the largest cities which too often tampered with the ballot-box and induced riot and corruption at the polling-booths. Greater purity of the ballot and the elimination of fraudulent opportunities became henceforth a standing task for all good citizens. Hitherto no educational test had been applied to the common voter, but midway in this present century Native Americanism asserted itself. "No elector shall be qualified," declares Connecticut's amendment of 1855 in substance, "who cannot read the constitution or any statute of the state;" and Massachusetts by 1857 confined the ballot to such as could read the constitution in the English language and write their names. To such constraints upon ignorant suffrage those two commonwealths have ever since adhered, maintaining that practical experience commends the rule. This reading and writing test is not the true one for all cases, since sturdy and honest manual labor makes better citizens than a mental training perverted; foreigners may know their native language, if not ours; nor are the illiterate necessarily ignorant. Nevertheless moral fitness can only be partially tested by judicial conviction for crime, and approximate satisfaction is better perhaps than none at all. Meanwhile various other constitutions of the decade 1850-1860 are seen prescribing to one extent or another a registration system in the growing centres of population, so as to reduce the danger of false and repeated personation at the polls.<sup>1</sup>

The new state of Kentucky ordained that elections should last for three days at the request of any candidate, and new Tennessee followed by prescribing two consecutive days.<sup>2</sup> The eighteenth century was then near its close. Likely enough a similar usage had existed previously in Virginia or North Carolina. But the mischiefs

<sup>1</sup> Virginia 1850; Louisiana (as to New Orleans) 1852; Rhode Island 1854.

<sup>2</sup> Kentucky 1792, 1799; Tennessee 1796.



of frequent and prolonged elections have since impressed our American people; and by 1861 and the era of the civil war, elections were almost universally confined by state organic law to a single day, each newly admitted member of the Union favoring that principle.

That controversy as between the ballot and *viva voce* modes of voting whose origin has already been remarked continued far into the nineteenth century. Georgia in 1789, Pennsylvania and South Carolina in 1790, Kentucky in 1792, Vermont in 1793, Tennessee in 1796, each in turn gave fundamental preference to the modern ballot. But Kentucky, veering in her opinion, changed from the ballot in 1799 to *viva voce*, siding in practice apparently with the mother state, Virginia. Georgia's change of mind was somewhat similar.<sup>1</sup> And thus stood that issue at the close of the last century. Since then the use of the ballot under state fundamental law has advanced steadily toward universal acceptance throughout the Union.<sup>2</sup> Original states like New York and Maryland, which had once experimented with the *viva voce* method, abandoned it forever.<sup>3</sup> And the fair distinction drawn in 1790 by Pennsylvania's constitution is seen recognized in various other state instruments framed previous to 1850, that all elections shall be by ballot except those by legislators, who shall vote *viva voce*. For those in public station should be held by constituents to their public responsibilities and be judged by the record, while to the voter an honest independence as among candidates is the chief essential.

But while the method of voting remained debatable, we see in the various conventions of new states of the Mississippi Valley a disposition either to compromise or evade the present issue. Mississippi in 1817 at her admission ordained that the first state election should be by ballot and all future elections "regulated by law;" Alabama in 1819, that all elections should be by ballot until the assembly directed otherwise; and Indiana in 1816, earlier than either, that all popular elections should be by ballot, provided that the legislature might, if thought expedient, change in 1821 to the *viva voce* plan, after which time the rule should be unalterable. All such dexterous expedients seem to have ended, as they ought, in establishing permanently for each state concerned the written or printed ballot. But Illinois on the contrary put the burden of proof upon advocates of the ballot, just as Georgia had done in 1798; her new constitution of 1818 ordaining that all votes should be

<sup>1</sup> Georgia's constitutions of 1777 and of 1789 had favored the ballot, but that of 1798 required the electors to vote *viva voce* in all popular elections until the legislature should direct otherwise.

<sup>2</sup> See Ohio 1802; Louisiana 1812; Connecticut 1818.

<sup>3</sup> New York 1821; Maryland 1810.

given *viva voce* until the legislature enacted otherwise. Even such expedients, however, could not stem the current; for in 1848 Illinois permanently espoused the ballot under a new state constitution. Georgia made apparently no change with regard to legislative option, whatever might have been its course of action. Missouri's convention in 1820 seems to have evaded the issue altogether; while Arkansas in 1836 gave clear preference to *viva voce*, just as Illinois had done when first entering upon statehood. The tendency of the century had now become unmistakable for taking the popular vote by ballot; and Michigan's concession in 1835 that township officers might be elected *viva voce* marks the extreme limit for suffrage by voice and a show of hands, so far as American practice finally shaped out elections by the people.

Down to the civil war, however, while states such as we have mentioned might be thought doubtful in their dissent from the ballot, Virginia and Kentucky stood sturdily together to resist the gathering sentiment of sister states. And in the appeal to unflinching manliness at the polls these two states insisted still that every voter should show at the hustings the courage of his personal conviction. Custom and statute law seem to have fixed early the *viva voce* standard for the Old Dominion, though her organic law down to 1830 was silent on the subject. But Virginia's new constitution of that year gave to the filial Kentucky a pronounced support, by the declaration that "in all elections" to any office or place of trust, honor and profit the votes "shall be given openly or *viva voce*, and not by ballot." And once again in 1850 the emphatic and somewhat humorous expression of Kentucky's constitution, a few months earlier, was duplicated in the new Virginia document of that year, that "in all elections" whether by the people or the legislature "the votes shall be personally and publicly given *viva voce*, provided that dumb persons entitled to suffrage may vote by ballot." All this, however, won no more proselytes; for by this time all new states of the Union favored successively the ballot in their written constitutions; and while the civil war progressed, a decade or more later, Virginia recanted such views and conformed to American practice.<sup>1</sup> State reconstruction following the civil war completed the organic triumph of the ballot-box throughout the United States. Free from all military coercion in her organic institutions, Kentucky seems to have kept longest to the old method; but in 1891 her constitution, too, was remodelled; and one clause of that instrument expressly declares that all elections by the people shall be by "secret official

<sup>1</sup>Virginia and West Virginia, 1863-1864. Every voter shall be free to use an open, sealed or secret ballot as he may elect; West Virginia, 1872.

ballot." This full phrase sanctions the improved method of voting which our latest generation has adopted. Instead of the manifold private and partisan ballots once pressed upon each voter by rival canvassers at the polls, we now have in nearly every state, and as part of the organic law where new state constitutions or amendments dispose of the subject, an official ballot, publicly printed and prepared on what is known as the "Australian plan," on which appear the names of all party candidates for the voter's own secret mark of preference. A system, in short, guarding better than ever before the individual's choice and freedom from corrupt and insidious solicitation is the reform of the American franchise which signalizes the last decade of the nineteenth century.

The growing evils of machine politics and demagogism in our land are met by numerous provisions in the state constitutions of the last forty years, whose main object is to preserve at all hazards the purity of the ballot box and the rights of each honest voter. Hence are found many details as to ballot methods, registration, and the appointment of inspection officers to prepare and revise voting-lists, especially in the large cities. Those kept at asylums or prisons at the public expense are forbidden to vote, while bribery or intimidation at the polling places, and all false personation, are crimes severely denounced for punishment,<sup>1</sup> and fit reason moreover for depriving one of the rights of elector.

A certain brief period of local residence is usually made indispensable to adult exercise of the right of suffrage, such for instance as a residence within the state for two years and within the town half that time. One must at all events, according to most precedents, vote only at the place where he resides, and within the first half of this century local residence for both voter and representative candidate became strongly insisted upon, as it has been ever since.<sup>2</sup>

Various organic provisions of a miscellaneous character have qualified the electoral franchise. Thus South Carolina in 1810 expressly excluded paupers and non-commissioned officers of the United States from such exercise. State suffrage has been usually confined to the native-born and to those naturalized under the laws of the United States, except for residents in the last century during the Revolution or when the federal constitution was adopted.<sup>3</sup>

<sup>1</sup> See for such details the constitutions of Maryland (1867), Missouri (1875), Colorado (1876), and New York, amendments (1894). New York here provides for registration lists and a bi-partisan election board. A few states have shown a fundamental dislike to registration provisions, as in Texas, North Carolina and West Virginia constitutions, 1870-1876.

<sup>2</sup> *Semble*, that under South Carolina's constitution of the last century a freeholder might vote where he held land, even though not a resident.

<sup>3</sup> Vermont by 1828 abolished a right given in 1793 to denizens who were not naturalized citizens.

It has been usually denied expressly to paupers and confined criminals. During the civil war and subsequently, gratitude to the citizen soldier induced in various loyal states some special extensions of the franchise for the special benefit of that class of persons.<sup>1</sup> Idiots and insane persons are always implied and often expressed exceptions to the exercise of local suffrage. While the Native-American party existed in our politics, an amendment in 1858 to the ancient constitution of Massachusetts compelled an additional residence of two years within the jurisdiction of the United States subsequent to naturalization before any person of foreign birth should be entitled to vote or be eligible to office; but gratitude to the foreign-born who went forth to battle for the Union caused the repeal of that amendment in 1863. In various states at the Northwest the right to vote has on the contrary been extended to aliens declaring their intention even before they reach the full condition of naturalized citizens of the United States, but latterly some reaction from this policy has set in.<sup>2</sup>

Negro disqualification before the civil war and the national effort since that period to extend the suffrage to a once servile race we need not dwell upon. Under the fifteenth federal amendment all distinctions of race, color and previous servitude are forbidden; but while slavery lasted in America there were very few state constitutions outside of New England (Pennsylvania until 1838 being perhaps the only exception) where "free white men" or "white males"<sup>3</sup> was not the recognized definition of the state voter, whether in slaveholding or non-slaveholding states. Even in the era following the civil war the great state of New York would not consent to establishing equal negro suffrage until after a long political struggle which lasted until 1874. California in 1879 expressly excluded all Chinese from voting.<sup>4</sup> Hitherto the American rule with trivial exceptions has been under the most liberal conditions that of manhood suffrage; and the admission of woman partially or fully to the same privilege becomes an agitating issue, of whose final outcome in states already organized upon the old basis of government it is yet too early to judge.<sup>5</sup> That the legislature may disfranchise those con-

<sup>1</sup> See Massachusetts, 1881, as to paupers who had served in war.

<sup>2</sup> Texas and Minnesota in 1896 pronounced strongly for constitutional amendments more restrictive. See also New York (1894) forbidding a naturalized foreigner to vote within ninety days after receiving his naturalization papers.

<sup>3</sup> New York in 1821 established a partial and peculiar discrimination as to negro voters.

<sup>4</sup> *Seem* in conflict with the fifteenth federal amendment.

<sup>5</sup> See Minnesota's partial permit to the legislature in 1875; Utah's constitution as a state, etc.

victed of infamous crime is a permission, founded upon sound reason, which at this day is largely bestowed.

Under some of the earliest constitutions of the new federal epoch electors were specially privileged from arrest (except for specified heinous offences) during their attendance at the elections or while going and returning; and this privilege from arrest has become in this century a feature of many state constitutions.<sup>1</sup> And during our latest era the American disposition has increased to combine elections, so as to reduce their number and frequency and give the local people of a state relief from political turmoil and excitement. State and national elections have in consequence been set for the same day, where formerly they were held in different months of the same year; and biennial state elections for both the highest executive officers and the legislature are now decidedly preferred to those annual pollings once deemed essential to liberty.<sup>2</sup>

Not only in the extension of voting membership, but through increased opportunities for exercising the power to choose among candidates, has the elective franchise made immense progress during the past century in these American states. The choice of local, town and county officers at the polls has been constantly maintained from the colonial age, and more than ever do such incumbents derive their agency from the people. Instead of choosing members of a single representative assembly or of the most numerous branch only of the legislature, as formerly, the mass of voters in each state have become, through the gradual assimilation in representative character of the two houses of a state legislature, electors on a uniform basis of qualification to both state senate and house. While for years after American independence was declared the chief magistrate of many states was chosen by the legislature, that choice now vests in the general body of state voters instead, as does also that of most other high executive officers, and, by as nearly a direct process as the federal constitution permits, of president and vice-president of the United States besides. Finally, and as the full triumph of free suffrage longest opposed by conservative citizens, judges and all officials connected with the machinery of the courts are now chosen by the voters in nearly every state. The march of the American democracy to power has proved irresistible.

JAMES SCHOULER.

<sup>1</sup> Pennsylvania, Delaware, Kentucky and Tennessee, 1790-1799. The phrase is suggested by that clause of our federal constitution which defines the privilege for members of Congress.

<sup>2</sup> The old maxim was that "where annual elections end, tyranny begins."

## THE AUTHORSHIP OF THE FEDERALIST

THE arguments presented by Professor Bourne in the last number of the AMERICAN HISTORICAL REVIEW on the authorship of the disputed numbers of *The Federalist* appear to me open to a very serious objection so far as they attempt to prove the authorship by mere resemblance to ideas to be found in other writings of the same men, or by the use of certain authorities in their references. Any one who has studied the period in which *The Federalist* was written must realize that the air was filled with certain principles and facts, which were used by the writers of *The Federalist* as well as by many others, and for this reason any attempt to settle the question of the disputed numbers from mere similarity of thought is necessarily unsafe. From the letters of "Brutus," the great opponent of "Publius," could be selected a series of extracts that would go far to prove that the former was the writer of the disputed numbers of *The Federalist*. The same conditions which produced a dispute as to authorship served to produce a likeness in the essays; for they were penned by men who had been reading the same books and listening to the same debates, and whose minds were therefore necessarily for the moment steeped with the same material. Undoubtedly, too, there was some consultation between the writers of "Publius," with inevitable mutual coloring, and the letters were written with such haste that no one essay could especially impress itself on the mind of the writer. But an even greater cause than this matter of "stock" phrases and exchange of ideas, for the confusion and resulting contradiction of the writers, was the fact that both Hamilton and Madison were members of the conventions called in their respective states to discuss the constitution, and in their speeches, necessarily, went over the same points that had been discussed in *The Federalist*. Hamilton was charged by an enemy with "retailing" Publius to the New York state convention, and a reading of Madison's speeches in that of Virginia shows that he, too, made

large drafts on *The Federalist*.<sup>1</sup> When, therefore, the moment came that its writers could look over the collected edition it is not strange that much of it read so familiarly to each that he honestly thought himself the writer. Granting the possibility, therefore, that both men should be misled, the question becomes not what each author thought, but purely what other evidence than their opinions goes to prove.

But before dismissing this question of memory one fact of value cannot be omitted. Madison left New York three days after the last essay in dispute was published, and was at once engaged in the heat of party strife in Virginia, tending to obscure his memory on the question of authorship, and making it improbable that he could give the volumes of *The Federalist*, when they presently appeared, any careful examination for some time. Strange though it may appear, Madison apparently possessed no copy of the first edition, having presumably given away all those sent him by Hamilton.<sup>2</sup> On the other hand, while Madison was engaged in occupations likely to make him forget or confuse the part he had borne in the undertaking, Hamilton was revising the newspaper articles and seeing them through the press for the book edition. There is not an essay in the collected edition of 1788 in which he did not make from ten to twenty verbal corrections, implying careful study of the text, and as this revision was done within two months of the appearance of the essays in the newspapers, and before Hamilton had confused matters by "retailing Publius" in the New York convention, it is obvious that he refreshed his memory in a way most certain to fix the authorship clearly in his mind.

These facts being considered, it becomes of importance to find what is the earliest date at which each of the disputants asserted his claim of authorship. So far as is known, Madison's was first noted in a copy of the edition of *The Federalist* printed in 1799, or eleven years after the appearance of the essays. Hamilton's earliest statement was made to Chancellor Kent, and as he is spoken of in the memoranda as "general Hamilton" it must have been made while he held that rank, or in the years 1798 or 1799. Thus both assertions practically rest on equal ground, so far as time is concerned.

But one piece of evidence deserves mention, because it seemed at one time to threaten that Madison's claim was to be lost by default. Hamilton's list was published in a widely read periodical in

<sup>1</sup> From these Professor Bourne, by parallel columns, cites extracts to prove that Madison wrote the disputed numbers. But would it not be as good evidence if he quoted the paraphrasing of Montesquieu in *The Federalist* to prove that "Publius" wrote the *Esprit des Lois*?

<sup>2</sup> His copy was one of the edition of 1799.



1807, and the edition of *The Federalist*, printed in 1810,<sup>1</sup> gave further currency and authority to Hamilton's view by ascribing the numbers according to one of his statements. Yet not one word of denial was publicly made by Madison, or by any of his friends for him, until 1817. It has been urged in explanation that Madison's official positions prevented his entering into a controversy, but an adequate reply is furnished by the fact that through his friends the secretary of state and president conducted several newspaper controversies in these very years.

Another point worth considering is the fact that Hamilton held by far the readier pen, and as the originator of the series undoubtedly intended to take the laboring oar. Madison was the last one of the three to join in the undertaking, and in the first thirty-six essays he wrote but two entirely by himself, the remaining three in which he bore a part having been begun as well by Hamilton. With this in mind let us consider a circumstance that marks a peculiarity in Madison's chief share of the work.

At No. 37 Hamilton for the time being ceased all work,<sup>2</sup> and Madison took up the task and wrote twelve consecutive essays, immediately following which come the twelve in dispute. The question naturally arises, Why should Hamilton suddenly transfer to Madison the continuance of the series, throwing upon him all the work? and the reason is not far to seek. No. 36 of *The Federalist*, or the last of Hamilton's contributions, was published on January 8. On January 15 the New York Supreme Court began its winter term, and Hamilton, as a busy lawyer, was called upon to attend

<sup>1</sup> One fact of interest in this edition is that it gives Hamilton as the author of No. 54, thus showing that there was a list "in his own handwriting" in existence at that time which corrected the obvious error he made in the Benson list.

<sup>2</sup> A very valuable piece of evidence on this question of authorship has been buried from sight by the mistakes of Hamilton's two editors in labelling a paper printed in both editions as a "Brief of Argument on the Constitution of the United States," though the manuscript of the paper bore no heading whatsoever. Study of it should have clearly indicated that it is a preliminary outline of *The Federalist* from the point at which Hamilton was interrupted in his composition by his legal and political occupations, and it was presumably drawn up as a guide for Madison in his continuance of the task. In accordance with this theory, we find the latter closely following, in the succeeding numbers, the outline here proposed, and by merely transposing the last portions headed "Powers" and "Miscellaneous Advantages" so that they precede that headed "Review" we have the arrangement of ideas adopted in *The Federalist* from the point at which Madison began. The syllabus is especially valuable in view of the dispute over the authorship, for it shows how sharp a line Hamilton drew between the "Powers" and the "Review" of the three departments, the latter being evidently considered by him as one synthetic whole. A comparison of No. 39 with "A" and "B" reveals how thoroughly Madison absorbed the syllabus in this number, and as that has been the most quoted of all those from Madison's pen the source of his ideas possesses much interest. See *Hamilton's Works*, II. 463.

it.<sup>1</sup> Furthermore, on January 11 the New York state legislature assembled, and Hamilton, who was a candidate for membership of Congress, was involved in a political campaign akin to the modern senatorial election. These joint occupations necessarily made such drafts upon his time that he could not continue *The Federalist*, and that there should be no break in it Madison assumed the entire task of carrying it on. The term of the court ended on January 25. We therefore have the choice of inferring that Hamilton at once resumed his work on *The Federalist* or else that he resumed it when Madison went south.<sup>2</sup>

Turning from these extraneous facts to those which can be drawn from the essays themselves, the first point deserving consideration relates to a condition implied by joint authorship. A moment's thought will suggest that a work produced in this manner must force upon each writer a little difficulty in maintaining in a nominally consecutive work an appearance of homogeneity. When an essay was to follow one written by the same author sequence was possible, but when it was to succeed one he had not written or read, the task was not easy. Necessarily, then, one would expect a certain disjointedness of connection, and this is the very thing one does find on examining the points where a new writer assumed the pen. Thus No. 10, by Madison, is an essay on faction, yet though the preceding letter was on the same subject, No. 10 does not continue the first, but is a distinct essay. Following this are three essays on the defects of the Confederation, by Hamilton, and then comes No. 14, by Madison, which is really a continuation of No. 10, and marks therefore an absolute break in the subject of both the letters which precede and those which follow it. If the authorship of these six numbers were not known, it would be possible to decide, from internal evidence, at what points a different writer undertook the labor. Nor does the obvious difference between a man opening an essay which follows one by himself as compared with his following one by another fail to show itself at every change of writer that is known to have occurred. By examining the opening phrases of Nos. 10, 14, 18 and 37, in which Madison began his contributions, the disconnection with the preceding numbers is made obvious, and the same is true of Nos. 2 and 64, in which those by Jay began. But

<sup>1</sup> That the courts gave Hamilton so much occupation as to force him to suspend his work on *The Federalist* is proved in a letter from him to Madison in April, 1788, when he wrote: "If our suspicions of the author be right he must be too much engaged to make a rapid progress in what remains. The Court of Chancery and the Circuit Court are now sitting." Turning to *The Federalist* we find at this very point a gap of over two months in the publication of a number.

<sup>2</sup> No. 48 was published on Feb. 2. Madison went south on March 4.

most marked of all are the opening sentences with which Hamilton resumed his part, and as they are of value, in the present consideration, they are quoted here :

No. 6. "The last three numbers of this work have been dedicated to an enumeration of the dangers . . . ."

No. 11. "The importance of the union in a commercial light . . . ."

No. 15. "In the course of the preceding papers I have endeavored . . . ."

No. 21. "Having, in the last three numbers, taken a summary review . . . ."

Here, then, in three cases are evident attempts to attach new subjects to previous essays so as to imply a sequence that was absent in the subjects and treatment. With this as a clue, if we run through the letters from No. 37 to No. 63 (after which there is no dispute), but two natural breaks are to be found, at Nos. 47 and 52, which severally begin :

No. 47. "Having reviewed the general form of the proposed government . . . ."

No. 52. "From the more general inquiries pursued in the four last papers . . . ."

If the analogy of the previous openings is allowed as evidence, it is at one of these two points, then, that we should conclude that a new writer had begun.

With these facts to work upon, an examination of the five essays, Nos. 47 to 51, shows them to be a discussion of the apportionment of the powers of government among the three departments. The general extent of these powers had been already discussed in the immediately preceding numbers, and a more minute survey of their relation to the three departments is the subject of the remaining essays almost to the end. They can therefore be considered as belonging to either. From Madison himself, however, we get a clue, for in No. 41 he distinctly assigns them to the second series.<sup>1</sup> But whether this is accepted as proof or not, an examination of the five forces the inference that they were all written by one man.

The authorship of Nos. 37 to 48 is given to Madison by every known list, so it is difficult to avoid concluding that the apparent

<sup>1</sup> "The Constitution proposed by the Convention may be considered under two general points of view. The FIRST relates to the sum or quantity of power which it vests in the Government, including the restraints imposed on the States. The SECOND, to the particular structure of the Government, and the distribution of this power among its several branches.

"Under the first view of the subject two important questions arise: 1. Whether any part of the powers transferred to the General Government be unnecessary or improper? 2. Whether the entire mass of them be dangerous to the portion of jurisdiction left in the several States?" (Opening paragraphs of No. 41.)

break between Nos. 46 and 47<sup>1</sup> merely represents the beginning of a new subject by the same pen, and not a change of writer. Furthermore we have the excellent authority of James Kent for the statement that "Mr. Hamilton told me that Mr. Madison wrote 48 and 49, or from p. 101 to 112 of Vol. 2d." No. 50 was almost surely written by the same hand which penned No. 49, and No. 51 was certainly composed by the writer of No. 50. Furthermore these essays discuss the powers chiefly from the historical and theoretical standpoints, views for which Madison had strong predilections. A candid survey of the facts therefore will, we think, lead every unbiased student to agree with Professor Bourne in assigning them to one author, and the balance of evidence certainly points to James Madison.<sup>2</sup>

But the same internal evidence shows that with No. 52 a minute and homogeneous examination of the structure of the government is begun, in which the three departments are analyzed point by point. That one man wrote Nos. 52 to 58, that a second contributed Nos. 59 to 61, that then the original writer resumed his work in Nos. 62 and 63, and that finally the task was again assumed by the second writer and completed by him, the essays themselves give no evidence. With the exception of the insertion of one essay (No. 64, on the treaty-making power of the Senate, which was given to Jay because of his diplomatic experience), it is difficult to resist the conviction that the whole remainder of the letters is the work of one writer and one prone to take the practical rather than the theoretical view of things.

<sup>1</sup>One curious fact to which attention has never been called is that Taylor, in his *New Views of the Constitution*, 1823, divides the authorship at No. 46, giving No. 47 and all that follow to Hamilton. Yet though he was the friend and correspondent of Madison, and though this book was well known to the latter, neither publicly nor privately, so far as is known, did he correct Taylor's conclusion.

<sup>2</sup>One rather singular piece of evidence contradictory to the above conclusion is furnished by the comparative length of the different essays. When examining in the newspapers the original text of *The Federalist*, my attention was called to the fact that the letters contributed by Hamilton rarely overran a column and a half, while those by Madison seldom filled less than three columns. I therefore carefully estimated the lengths of each man's work, to find that the average length of the fifty essays unquestionably written by Hamilton is 1800 words; of those certainly written by Madison 3000 words. Madison wrote in the undoubted numbers (Nos. 10, 14, 37-46) but two essays of less than 2300 words, and Hamilton but once wrote one of 3000 words, except in the last five, when an evident attempt was made to finish the series up quickly. Testing Nos. 49 to 58 and Nos. 62 and 63, the average length is found to be 1800 words. No. 47 contains 2700 words; No. 48, 1800 words; No. 49, 1600 words; No. 50, 1100 words; No. 51, 1800 words; No. 52, 1700 words. It is needless to add, to any one who has studied the writings of the two men, that the difference between the two styles in this very respect is most noticeable. Madison is wordy and seems to have little ability to express an idea with brevity. Hamilton is direct and compact to an extent which made him a famous draftsman in his day, and few men have ever equalled him in his power of stating a thing tersely.

Examining Nos. 52 to 58 and 62 and 63 in detail, we find several small facts which throw light on the question of authorship. In Nos. 52, 56, 57, 58 and 63 are citations of examples in English history, like reference being numerous in many of Hamilton's essays, but only two passing references to Great Britain are to be found in any of those written by Madison.<sup>1</sup> The same difference is noticeable in the papers prepared by the two writers for the use of the Federal Convention—Hamilton's "Brief" of his speech, and Madison's "Notes"—the first citing British example frequently, the latter not once.<sup>2</sup>

In Nos. 53, 54 and 56 are paragraphs discussing taxation, and the first and last of these letters also discuss the militia, both of which subjects Hamilton had familiarized himself with, and which he had made his own topics in the earlier essays.

No. 54 is a discussion of slave representation, written nominally from the southern point of view, but really from the northern. Not once did Madison allude to this famous clause in the Virginia convention, but Hamilton spoke a résumé of this essay in that of New York. The cause for this is obvious: the "federal number" needed no defense in Virginia; in New York the contrary was true. But an even greater reason for Hamilton's taking up this particular point was the fact that on February 7, 1788, there had appeared in the *New York Journal* a letter entitled "The Expositor" savagely attacking the slave compromise and charging of Hamilton himself that "The delegate from this state acceded to it alone on the part of this state" and adding "I cannot help thinking it a most daring insult offered to the freemen and freeholders of this state, besides being an unparalleled departure from his duties to this state as well as to the United States." Necessarily this attack could not be disregarded, and the impersonal reply to it in No. 54 was published exactly one week later, on February 14. It seems almost conclusive under these circumstances that it was written by Hamilton. Another opinion in this number furthers this probability. The writer praises the "federal number" on the ground that it introduces through the slave a partial representation of property. This was a favorite idea of Hamilton's, for which he had spoken in the Federal Convention, and for which he praised this clause in one of his speeches in the New York convention. To this idea of property representation Madison was absolutely opposed.

<sup>1</sup> I omit here the résumé in No. 47 because, from what has already been shown, this number cannot be positively ascribed to Madison.

<sup>2</sup> In Madison's supplementary notes, prepared for use in the Virginia Convention, he cites British example, but this was after *The Federalist* had called his attention to the value of the material.

In No. 52 the writer is in doubt as to the term of office of the colonial assembly of Virginia before the Revolution; a fact so notorious in that state that it could not have been unknown to Madison.

In No. 63 the writer praises the British House of Lords, something Madison would not have done. Hamilton on the contrary had been most open in his admiration of the British government, and so admired this particular branch of it that he had but just modelled the senate in his proposed constitution as closely upon it as he could. This essay, too, devoted a paragraph to the senate of Maryland, which Hamilton had already noticed with some attention in his "great" speech in the Federal Convention.

In Nos. 54 and 57 the mention of local circumstances, of New York state, of New York city, and of Albany county, point to the knowledge of Hamilton rather than to that of Madison.

Finally and most conclusive, in the republication in 1788 of the letters in book form, Hamilton inserted in the newspaper text of No. 56 a paragraph relating to military affairs, and as he was scrupulous in correcting the numbers not written by himself to limit his changes to merely verbal improvements, this addition amounts to an assertion of authorship within two months of its writing. Strangely enough, in the edition of 1818 in which "the numbers written by Mr. Madison" were "corrected by himself," this insertion of Hamilton's was retained.

From the preceding facts, in which, so far as possible, all evidence that is of value has been included, without regard to whether it told for or against a particular man, it appears that Madison probably wrote Nos. 49 to 51, and Hamilton Nos. 52 to 58 and Nos. 62 and 63, of those essays on which we find their testimony in direct contradiction.

PAUL LEICESTER FORD.

#### REMARKS BY PROFESSOR BOURNE.

MR. FORD's paper, upon which I am invited to comment, offers a different solution from the one reached in my article in the last issue of the REVIEW, and the method employed is also different. His conclusion is at variance with all the lists, while mine is in accord with Madison's testimony. The amount of evidence necessary to prove a conclusion contrary to the combined testimony of Hamilton and Madison is obviously much greater than that required to prove a case in harmony with the assertions of either one.

Mr. Ford begins by objecting to conclusions drawn from comparisons of language and thought. A general objection of this sort

has little weight. Every piece of historical criticism must stand or fall on its own merits. Internal criticism may be applied in a rash or an ignorant fashion, but it must be met point by point. Mr. Ford has failed to examine my method with care or he would not have made the comparison about the *Esprit des Lois*, nor alleged that I quoted Madison's speeches in the Virginia convention to prove that he wrote the disputed numbers. I did that only once, p. 453, and, if that instance is examined critically, it will be seen that it was perfectly legitimate. All the other parallel passages from Madison are from his letters or memoranda written before *The Federalist*.

The next point that Mr. Ford makes is that Madison's opportunities for remembering the facts about the authorship of the disputed numbers were not as good as Hamilton's. That may be true as he puts the case, but Madison was a methodical man, and he may have kept a list from the beginning. However that may be, in the only case that can be tested with absolute certainty, that of the authorship of Nos. 18, 19 and 20, I have shown that Madison did remember the facts far more exactly than Hamilton. Mr. Ford offers no instance where it can be proved that Hamilton was more nearly right than Madison.

Mr. Ford next tries to establish the earliest dates of Madison's and Hamilton's lists, but his conclusions cannot be accepted. In the first place it is an unsupported conjecture that Madison's list was no older than the date of the copy of *The Federalist* that he sent to Gideon in 1818, *i. e.*, not earlier than 1799. Second, we have Madison's own assertion that his list was an early one, if not substantially a contemporary one. He wrote Robert Walsh, in 1819, as follows: "If I have any interest in proving the fallibility of Mr. Hamilton's memory, or the error of his statement, however occasioned, it is not that the authorship in question is of itself a point deserving the solicitude of either of the parties; but because I had, at the request of a confidential friend or two, communicated a list of the numbers in that publication, with the names of the writers annexed, at a time and under circumstances depriving me of a plea for so great a mistake in a slip of memory or attention." (*Writings of James Madison*, III. 126.) Again in his letter to Paulding (1831), Madison says that his assignment, "if erroneous, could not be ascribed to a lapse of memory," but to a lack of veracity. He calls it "the distribution communicated by me at an early day to a particular friend, and finally to Mr. Gideon." Hamilton's lapse of memory he attributes partly to "the period of time, not less than — years, between the date of the *Federalist* and that of the memorandum." (*Writings*, IV. 176-177.) All this is decisively against



the unsupported hypothesis that Madison did not draw up his list until twelve years had elapsed.

Again, the fact that Chancellor Kent calls Hamilton "General" fixes the date only in one direction, *i. e.*, Kent would not have called Hamilton "General" at a date prior to his holding that rank; nor would he, on the other hand, cease to call him so after he had left the army. Such titles stick to men the rest of their lives. Dawson, for example, in his introduction styles Hamilton "General," but that does not indicate that Dawson wrote in 1798 or 1799.

The passage just quoted from Madison's letter to Walsh gives the probable reason why he did not enter the discussion earlier.<sup>1</sup>

In regard to Mr. Ford's next point, relating to the subdivision of the work, I will refer to my previous discussion of that matter, pp. 446-447. The suggestion that what Lodge (I. 497) prints as "Brief of Argument on the Constitution of the United States" was a draft for Madison's guidance in writing his numbers is interesting, but it will hardly stand examination. It is intrinsically improbable that Hamilton would have thought it necessary to outline for Madison the line of argument to be followed in defending the details of a constitution which he more than anyone else had made, and in the making of which Hamilton had taken little active part. It is doubtful if Madison would have accepted any such subordinate position. John C. Hamilton (*Republic*, III. 519) identifies this piece as the draft of the latter part of Hamilton's speech of July 13. Inasmuch as the things to be discussed in a speech defending the constitution and in *The Federalist* are the same, the heads to be taken up would necessarily be almost identical. To fit this "Brief" to his hypothesis, Mr. Ford rearranges the heads or topics. Even then the likeness is noteworthy in only a part of the topics. The decisive argument against Mr. Ford's conjecture is the fact that some of the heads reproduce the topics of some of Hamilton's earlier numbers. Compare, for example, "D" of the "Brief" with *The Federalist*, No. 9; also, Powers II. with No. 22, and Powers I. with No. 23. Second, while the historical examples of republics cited by Madison in No. 39 could not be very different from those which Hamilton might cite, owing to the limited number of well-known republics,

<sup>1</sup>I am able to supply some information about the "list in his [*i. e.*, Hamilton's] own handwriting" from which the assignments were obtained for the edition of 1810. In the Virginia convention of 1829 Charles Fenton Mercer said: "This volume, the third of an edition of Hamilton's works, the editor of which, he supposed, had obtained his key to the names of the authors of Publius from a manuscript of Mr. Hamilton which he saw many years ago, in the possession of the late Richard Stockton, an eminent statesman of New Jersey." (*Virginia Debates*, 1829-30, p. 188.) The 1810 edition still assigned No. 64 to Hamilton.

yet the similarity between the two documents is mainly in the use of this common material. The portion of 39 which has been so frequently quoted is the analysis of the federal and national elements of the Constitution, and of this famous analysis there is not a vestige in Hamilton's "Brief."

Mr. Ford tries to show that it was his professional engagements that led Hamilton to suffer Madison to write twelve consecutive numbers, but Madison was early invited to take part, and the real question is not why he wrote so many after No. 37, but why he wrote so few in the first part (cf. my article, p. 446). Jay did not write more because of his illness during that winter. Mr. Ford's parallel example in April is not well taken, for the reason that although no more numbers were published in the journals for over two months the rest of the numbers were written in April or possibly earlier. May 4th, Hamilton wrote Madison: "The second [*i. e.*, volume of Publius] will be out in the course of a week." (*Writings*, VIII. 183.) When the first volume was issued, March 22, the publishers announced: "The second is in the press." (Dawson, p. lviii.) It is obvious that the last eight numbers were written and the second volume carried through the press at the time when Mr. Ford concludes that Hamilton suspended his labors.

Mr. Ford's argument from transitions and so-called breaks seems to me a very precarious one. In fact it breaks down just at the point where it ought to be strong. There is such a typical "break" at the beginning of No. 47, but as all the testimony is against a change of authorship at that point he concludes that the "break" merely indicates the taking up of a new subject by the same writer, whereas at No. 52, the evidence being conflicting, the "break" indicates a new writer and not a new subject, although the subject is new. An examination of these transitions in general seems to me to show that they are not significant unless you know beforehand what they mean.

In assigning Nos. 49, 50 and 51 to Hamilton Mr. Ford apparently does not realize that he raises Hamilton's certain errors to five (including 54 and 64), and proportionately strengthens Madison's testimony.

Mr. Ford next suggests a length-test, but if it is valid it counts against his conclusions in regard to Nos. 49-51; if he is right in these conclusions his length-test breaks down, for we have in that case four short papers from Madison in succession. On the other hand Nos. 62 and 63 contain about 2500 and 3000 words.

Mr. Ford ignores the striking break in continuity between Nos. 61 and 62, where 62 obviously joins on to No. 58.

The evidence from references to English history is unfairly weighed, because the cases in No. 47 are omitted on the ground that it cannot be positively ascribed to Madison. The only evidence against the unanimous testimony of all the lists in regard to 47 is the extremely equivocal transition or "break" test. It is impossible to believe that Madison, who was one of the most careful students of history of the time, had to have his attention called by Hamilton to the utility of examples from English history. I have called attention to the fact that Madison was reading at this time Burgh's *Disquisitions*, which are quoted in No. 56. Madison's "Notes" being "Notes of Ancient and Modern *Confederacies*," would not naturally contain facts about England.

In regard to No. 54, I will refer to the points made in my article, p. 452. As the number is put into the mouth of a Southern statesman, whether Madison or Hamilton believed in the arguments is irrelevant; the only requirement is that the arguments should be such as a Southerner would use.

That Madison was "absolutely opposed" to property representation is asserted without evidence, and, in fact, is a mistake. He wrote in 1785: "In a general view, I see no reason why the rights of property, which chiefly bears the burden of government, should not be respected as well as personal rights in the choice of rulers." (*Writings*, I. 181; cf. also p. 187.)

In regard to the uncertainty expressed in No. 52 on the term of the Virginia assembly, it may be said that as "Publius" pretended to be a citizen of New York, that uncertainty might have been assumed as a natural touch for a New Yorker.

There is no praise for the House of Lords in No. 63. It is merely cited to prove that there is no danger to be feared from the organization of the Senate when an aristocratic body like the Lords have not been able to hold their own against the Commons.

The reference to the senate of Maryland, as far as it goes, points to Madison's being the author of No. 63, rather than Hamilton. In the Convention Madison said of it: "In no instance had the Senate of Maryland created just suspicions of danger from it." Hamilton, on the other hand, said: "The Senate of Maryland has not been sufficiently tried." (Scott's ed. of the *Debates*, pp. 155 and 182; cf. also Madison's favorable opinions in his *Writings*, I. 177 and 186.)

The mention of local circumstances of New York state, etc., in Nos. 54 and 57 contains nothing beyond the ordinary knowledge that an intelligent man would acquire in a few months' residence. Furthermore there are similar references to several other states in No. 57.

As for the insertion of an additional paragraph in Number 56 when it was republished in the edition of 1788, the conclusions Mr. Ford draws are by no means so sure as they seem to him. When I wrote my article I took it for granted that Lodge was right when he said the insertion was first made in the 1802 edition, but the fact, first brought out by Mr. Ford, that it was made in 1788 puts a different face on the matter. The number was published February 19, and Madison did not leave New York till March 4. According to the announcement made March 22, a part of the second volume at least was already in the hands of the printers. It is not at all improbable that that insertion may have been made with Madison's assent, or by him at Hamilton's suggestion. We are informed that Hamilton was very scrupulous not to make changes in numbers not his own when the edition of 1802 was prepared, but any changes in Madison's numbers for the 1788 edition could have been made with his consent. In any case, with this possibility, the argument of Mr. Ford falls far short of conclusiveness. If the change were made with Madison's consent, the retention of the insertion by Madison in 1818 is explained.

EDWARD GAYLORD BOURNE.

## DOCUMENTS

[Under this head it is proposed to print in each issue a few documents of historical importance, hitherto unprinted. It is intended that the documents shall be printed with verbal and literal exactness, and that exact statement be made of the present place of deposit of the document and, in the case of archives and libraries, of the volume and page or catalogue number by which the document is designated. Contributions of important documents, thus authenticated, will be welcomed.]

### *1. The First Charter to St. Edmund's Bury, Suffolk.*

ALTHOUGH the name of Abbot Sampson of St. Edmund's has obtained an almost world-wide celebrity, through Carlyle's *Past and Present* and the late Mr. Green's *History of the English People*, his charter of liberties to the abbey's townfolk, on which the latter writer specially dwelt,<sup>1</sup> was but a confirmation of that which Anselm, an earlier abbot, had already granted them. As Anselm's charter, so far as I know, has never been printed, I here append it<sup>2</sup> not only for its value as a singularly early grant of town liberties, but also as possessing, perhaps, for American students a special interest from the connexion of Suffolk with the settlement of New England.

It is very unfortunate that the long period of Abbot Anselm's rule (1121-1148) prevents us from fixing closely the date of this charter. A careful analysis of the witnesses' names has not enabled me to narrow further the limit of date. We can, therefore, only say that it probably belongs to the early years of Stephen's reign. The document with which we should compare this charter is that which records, under Henry II., "the customs of Newcastle on Tyne" as they existed under Henry I. This document is printed by Stubbs in his well-known *Select Charters*, with an introduction which, I venture to think, minimizes the privileges it records, when it treats them as local bye-laws. They distinctly imply the existence of a community privileged above others.

It is very necessary to distinguish these records of "customary" privileges from a charter "giving" fresh ones, such as that of Archbishop Thurstan to Beverley, also printed in Stubbs's work. In the case of our document, it will be observed that Anselm speaks

<sup>1</sup> See also his paper on "Abbot and Town" in his *Stray Studies*.

<sup>2</sup> From Harl. MS. 639, fo. 5, a transcript of 1633 from Liber Niger of St. Edmund's, fo. 117 b.

of the burgesses having proved their right to these "customs" before himself in his court. We may compare this statement with the remarkable clause in the charter of Richard I. to Colchester (6 Dec., 1189): "sint fora et consuetudines in tali statu quali fuerunt confirmatæ juramento burgensium nostrorum Colecestrie coram justic[iariis] errantibus Domini Regis patris nostri."

The opening clause of Anselm's charter deals with a matter which has never, I think, been sufficiently recognized, namely, that the "ward" system of our towns has its origin in the defence of the gates. Thus at Colchester (in the same district as St. Edmund's) the four "wards" (*custodiæ*) were named "Head," "North," "South" and "East," after the four gates which bore, respectively, those names. The exemption from hundred-court and shire-court was, obviously, no local bye-law, but a special privilege. The "Portmanmoot" played a large part at Ipswich (also in Suffolk). The "year and day" preclusive term is found also in the Newcastle customs, but is here of a sweeping character.<sup>1</sup> The clauses relating to the reeve's license and the right of preëmption by the kin (*retrait lignager*) may be illustrated by reference to my paper on "Archaic Land Tenure in Domesday."<sup>2</sup> The words "*intra feudum Sancti Ædmundi*" should be noticed as limiting the right of sale.<sup>3</sup> The elaborate provisions for the recovery of debts may be compared with the Newcastle "customs" relative thereto. The provision for payment of burgal dues seems to be aimed at the practice, after the Conquest, of Norman purchasers in towns repudiating the obligations on the tenements they purchased.

J. H. ROUND.

#### CONSUETUDINES BURGENSIIUM.

Anselmus dei gratia abbas Sancti Ædmundi omnibus baronibus et hominibus suis Francis et Anglis omnibusque successoribus suis salutem. Notifico vobis quod hec sunt consuetudines quas burgenses Sancti Ædmundi diracionaverunt coram me in curia mea se habuisse et tempore Æduuardi regis et temporibus Willelmi regis et filiorum eius Willelmi et Henrici et temporibus antecessorum meorum, videlicet Balduini abbatis et ceterorum abbatum, et quas eis, concessu tocius conventus S. Ædmundi, concessi et confirmavi. Igitur consuetudo illorum est invenire viij<sup>to</sup> homines per annum de iiij<sup>or</sup> custodiis per noctem ad villam custodiendam et in festo S. Ædmundi xvj homines per iiij<sup>or</sup> portas scilicet duos

<sup>1</sup> Cf. Maitland, *Law Quarterly Review*, V. 253, and Pollock and Maitland, *History of English Law*, I. 632.

<sup>2</sup> *Antiquary* (1882), V. 104.

<sup>3</sup> Cf. my paper as above.

homines in die et totidem in nocte et similiter per xij dies natalis domini. Invenient etiam iij<sup>or</sup> janitores per annum ad iij<sup>or</sup> portas. Quinta autem porta, id est orientalis porta, est in manu abbatis. Si autem opus fuerit, sacrista inveniet materiem portarum et burgenses parabunt eas. Quod si fossatum quo villa circumdatur reparari debet, si milites de abbacia et liberi sokemanni ibi operantur tunc burgenses ibi operabuntur sicuti milites sive sokemanni quia illud opus non pertinet magis ad burgenses quam ad milites. Quicumque habet in villa S. Ædmundi maisuras de burgali terra pro singulis maisuris dabit per annum preposito singulos obulos [*sic*] ad duos terminos, ad Pentecosten et ad festum Sancti Martini. Præterea non debent ire extra villa S. Ædmundi ad hundredum nec ad comitatum neque ad ullum placitum ut implacentur nisi ad suum portemannemot. Si quis burgensium habet terram in villa S. Ædmundi de patrimonio suo, vel si eam emit vel adquirit legaliter in villa vel in foro et illam tenuerit uno anno et uno die sine calumpnia, et hoc possit diracionare per testimonium burgensium post non respondebit alicui calumpniatori ex adverso venienti. Hanc autem, necessitate cogente, si non habet filium vel proximum parentem qui voluerit et potuerit ei dare tantum pro ea quantum aliquis alius, vendet cui voluerit int[ra] feudum Sancti Ædmundi sine omni licentia prepositi, uxoris, filiorum, et omnium parentum. Si quis prestiterit suam pecuniam alicui infra vel extra villam, et non poterit eam habere ad terminum statutum, et hoc fuerit recognitum in ipsa villa, accipiet namam [*sic*] pro ea. Si autem inde vadimonium habuerit et hoc tenuerit per integrum annum et unum diem et debitor illud degniare [*sic*] sive deliberare noluerit, et hoc fuerit recognitum, vendet vadimonium coram bonis testibus quantum poterit, et inde suam pecuniam capiet. Si quid autem superfuert, reddet illi. Si vero inde totam suam pecuniam habere non poterit, iterum namam capiet pro hoc quod illi deest. Si quis adquisivit terram in eadem villa que fuisset de burgali consuetudine, quicumque ille sit, faciet consuetudinem quam illa terra facere consuevit.

Et hii sunt testes: Taleboth prior; Siredus; Ædnothus; Ordinus<sup>1</sup> Goremus; Herveus sacrista;<sup>2</sup> Adam dapifer;<sup>3</sup> Wlwardus clericus; Gilebertus filius Fulceri; Willelmus filius Ailboldi; Radulfus de Lodnes;<sup>4</sup> Gilebertus de Lodnes; Ricardus de Lodnes; Rogerus de Gerssing;<sup>5</sup> Radulfus de Bukeham; Hugo de Kersing; Rodbertus de Haltsted; Ailbricus de Capeles; Ailmer de Hwatefelde; Leomerus de Berningeham; Berardus nepos eius; Brian; Owardus; Willelmus filius Petri; Romaldus leo(?); Radulfus constabularius; Osbernus pincerna; Galfridus de Meleford; Johannes de Valle; Rodbertus Malet.

<sup>1</sup> Succeeded Anselm as abbot in 1148.

<sup>2</sup> To whom is attributed the noble gatehouse of the abbey still standing.

<sup>3</sup> Adam de Cokefeld (Cockfield, Suffolk) made *dapifer* by abbot Anselm.

<sup>4</sup> Loddon, Suffolk.

<sup>5</sup> Gissing, Suffolk.



2. *The Clarksville Conventions, 1785, 1787.*

The Anglo-Saxon instinct for government has often been commented upon. Nowhere has it shown itself more strongly than in the progress of the settlement of the United States. Frontier communities, far removed from other settlements, have adopted sufficient governmental organization to suppress disorder and to protect the rights of their citizens. One of the most noteworthy efforts of this kind occurred in Clarksville. This was a settlement formed in southern Indiana, near the falls of the Ohio. I am indebted to Col. Reuben T. Durrett, Louisville, Kentucky, for a sketch of its history. The town was incorporated by the legislature of Virginia in October, 1783, and provision was made for laying out its lots and giving it governing trustees. (Hening, *Statutes at Large*, XI. 336.) The first meeting of the trustees was held at Louisville, August 7, 1784. George Rogers Clark was chairman of the meeting. The act of the Virginia legislature was accepted by the trustees' assigning lots in the town in accordance with its provisions. The town is still in existence and consists of about one thousand acres of land. General Clark believed that it would become a great city, but it has never been of much importance. The convention which framed the accompanying constitution contained twelve members; the convention which amended it contained nine. As the records of the meeting state that these were a majority of all the inhabitants of the town, the population could not have exceeded twenty-three in 1785 and seventeen in 1787. A convention quite similar to the one in Clarksville is discussed in Burnet, *Notes on the Early Settlement of the Northwestern Territory*, 57.<sup>1</sup> The following papers are from the library of the State Historical Society of Wisconsin, Draper MSS., Wm. Clark Papers, I. 103, 105.

CARL EVANS BOYD.

Resolves of a Convention, held at Clarksville on thursday the 27th day of January 1785

At a Convention held at Clarksville on thursday the 27th of January 1785, by the Inhabitants of the Town for the purpose of forming some Laws or regulations to remedy sundry grievances which the said Inhabitants have hitherto lain under. Present, Valentine Thomas Dalton, John Jackson, John Vaughn, Robert George, William Barget, Jonas Scoggin, John McFerson, Francis Holland, John Nelson, Christopher Hunt, Mordecai Richards and William Clark, being a majority of those actually settled in the said Town of Clarksville,—

<sup>1</sup> See also Professor Turner's remarks, *AMERICAN HISTORICAL REVIEW*, I. 78.

The House proceeds to the election of a Chairman when Mr. W<sup>m</sup> Clark was elected,—

1<sup>st</sup> Resolved, that whereas the Honb<sup>ls</sup> the Congress of the united States have not as yet adopted any mode or plan for the Regulation and Government of this our infant Settlement, and it is become necessary to form certain Regulations for the better security of our Lives and property ; The Inhabitants of this Town have a right to assemble from time to time and enact suitable Laws to maintain peace and tranquility among the People ; and which may not be incompatible with the Constitution of the united States, or the Resolutions of Congress.—

2<sup>d</sup> Resolved that some Tribunal be established, with power to summon parties, and hear and Determine all matters of Controversy and award punishment ; and whose judgment shall be final.—

3<sup>d</sup> Resolved that whereas this Convention, for want of time and the assistance of able men, cannot at present form such and so many Laws as may be necessary to direct the Tribunal to be established by this Convention, in their proceedings in every particular ; The said Tribunal so established shall in giving Judgment, govern themselves as near as circumstances will admit, by the Laws of Virginia though they shall not be obliged to empanel Juries and regulate their proceedings by the sundry forms there laid down which would be attended with difficulty and trouble, but shall proceed and determine Controversies, and regulate their proceedings in such a manner, as to them seem best and most likely to maintain peace and good order among the Inhabitants and the number of people going to and from this place, other than in such cases where a Convention of the Inhabitants shall make particular provision,—

4<sup>h</sup> Resolved that William Clark, Robert George, John McFerson, and Valentine Thomas Dalton be appointed to exercise the Judiciary authority, shall take the oath of Office to do equal right and Justice to all Men without favour, affection or partiality to the best of their Judgment, and to be styled Magistrates ; and they, or any three of them shall constitute a Court, with power to summon parties, and hear and determine all matters of Controversy whatsoever.—

5<sup>th</sup> Resolved that on Complaint made to any one of the Magistrates, he shall direct the Sheriff, to be appointed by this Convention, to summon the defendant to appear at a certain time and place to be appointed to answer the Complaint ; and if the Complaint shall be for debt, and above the sum of twenty Shillings or the value, the Sheriff shall also by the direction of the Magistrate, summon the other members to attend and constitute a Court to determine the Controversy and give judgment, which shall be executed by the Sheriff as they may direct.—And in case the complaint shall not be for more than twenty Shillings, any one Magistrate may summon the defendant as aforesaid and hear and determine the matter, and give Judgment accordingly—

6<sup>th</sup> Resolved that when Judgment shall be given against any person for money, the Sheriff shall by warrant from the Court take so much of the Goods and Chattels of the Delinquent as will be sufficient to satisfy the

*Documents relating to the Shays Rebellion, 1787 693*

same, and after giving Eight days public notice shall sell such Goods at public auction to satisfy the Judgment.—

7<sup>th</sup> Resolved that John Jackson be appointed Sheriff who shall take an oath of office, and have power to call on persons to assist him in the execution of his duty in cases of necessity.

By order of the House

W. CLARK, Ch<sup>n</sup>

At a Convention held at Clarksville on monday the 12th of November 1787, Present Robert George John Jackson Buckner Pittman John Martin, William Thompson, John Reagh, William Thompson jr John Cleghorn and William Clark, being a majority of the Inhabitants of the Town aforesaid.—

1<sup>st</sup> Resolved, that whereas the Sixth Resolution of a Convention held in this Town the 27th of January 1785, directing the Goods of a Debtor to be sold at a Short period after Judgment obtained against them, is found to be oppressive, the same is hereby repealed and made void.

*3. Documents Relating to the Shays Rebellion, 1787.*

One of the most important events during the Shays Rebellion was the defense of the Continental arsenal at Springfield against the attack of the insurgents on January 25, 1787. The capture of the magazine with its stores of arms would have raised immensely both the actual strength of the insurgents and their reputation in the eyes of the community. Again, we see on this occasion state militia as the only defense of national property against a rebellion within a state. Says Jeremy Belknap, writing on February 2, 1787, to Ebenezer Hazard: "Is not their attack on the Arsenal a declaration of war against the United States? and ought not Congress to take them in hand, if this government should fail of their duty?"<sup>1</sup> Recent events in our national history give a new interest to the Shays Rebellion.

The protection of the Springfield arsenal was intrusted to Major-General William Shepard. In the first of the letters printed below he reports to Governor Bowdoin his successful defense of the magazine on January 25.

Shepard was facing a body of insurgents much superior to his own force, and was anxiously awaiting the arrival of General Lincoln with troops from the eastern counties. On January 27 Lincoln reached Springfield, and proceeded at once to drive the insurgents from their positions. The second letter is his account of his operations.

<sup>1</sup>Belknap Papers, I. 456.

From many towns in the state there came in a stream of petitions against the use of force in quelling the insurrection. The two printed below, from the towns of 'Colrain' and Granby, are perhaps among the most interesting specimens. The last paper is General Lincoln's reply to the Granby petition. The general certainly outflanks his petitioners in a masterly fashion.

JOSEPH PARKER WARREN.

I. GENERAL SHEPARD TO GOVERNOR BOWDOIN.

(Massachusetts Archives, Vol. 190, pp. 317-318.)

SPRINGFIELD Jan<sup>y</sup> 26. 1787.

*Sir,*

The unhappy time is come in which we have been obliged to shed blood. Shays, who was at the head of about twelve hundred men, marched yesterday afternoon about four o'Clock, towards the public buildings in battle array. He marched his men in an open column by platoons. I sent several times by one of my aids, and two other gentlemen, Captains Buffington and Woodbridge, to him to know what he was after, or what he wanted. His reply was, he wanted barracks, and barracks he would have and stores. The answer returned was he must purchase them dear, if he had them. He still proceeded on his march until he approached within two hundred and fifty yards of the arsenal. He then made a halt. I immediately sent Major Lyman, one of my aids, and Capt Buffington to inform him not to march his troops any nearer the Arsenal on his peril, as I was stationed here by order of your Excellency and the Secretary at War, for the defence of the public property, in case he did I should surely fire on him and his men. A M<sup>r</sup> Wheeler, who appeared to be one of Shays' aids, met M<sup>r</sup> Lyman, after he had delivered my orders in the most peremptory manner, and made answer, that that was all he wanted. M<sup>r</sup> Lyman returned with his answer. Shays immediately put his troops in motion, and marched on rapidly near one hundred yards. I then ordered Major Stephens, who commanded the Artillery, to fire upon them. He accordingly did. The two first shott he endeavoured to overshoot them, in hopes they would have taken warning without firing among them, but it had no effect on them. Major Stevens then directed his shott thro' the center of his column. The fourth or fifth shot put their whole column into the utmost confusion. Shays made an attempt to display the column, but in vain. We had one howitz which was loaded with grape shot, which when fired, gave them great uneasiness. Had I been disposed to destroy them, I might have charged upon their rear and flanks with my Infantry and the two field pieces, and could have killed the greater part of his whole army within twenty five minutes. There was not a single musket fired on either side. I found three men dead on the spot, and one wounded, who is since dead. One of our Artillery men by inattention was badly wounded. Three muskets were taken up with

*Documents relating to the Shays Rebellion, 1787 695*

the dead, which were all deeply loaded. I inclose to your excellency a copy of a paper sent to me last evening. I have received no reinforcement yet, and expect to be attacked this day by their whole force combined.

I am, Sir, with great respect, Your Excellency's most  
obedient hble Serv<sup>t</sup>.

W SHEPARD

Copy.

His Excell<sup>y</sup> JAMES BOWDOIN Esq<sup>t</sup>.

II. GENERAL LINCOLN TO GOVERNOR BOWDOIN.

(Massachusetts Archives, Vol. 190, pp. 319-320.)

Head Quarters Springfield January 28<sup>th</sup> 1787

Dear Sir—

We arrived here yesterday about noon with one regiment from Suffolk, one from Essex, one from Middlesex, and one from Worcester, with three companies of artillery, a corps of horse, and a volunteer corps under the command of Colonel Baldwin; the other company of artillery with the other regiment from Middlesex and another from Worcester which were as a cover to our stores arrived about eight o'Clock in the evening. On my arrival I found, that Shays had taken post at a little village six miles north of this, with the whole force under his immediate command, and that Day had taken post in West Springfield, and that he had fixed a guard at the ferry house on the west side of the river, and that he had a guard at the bridge over Agawam river. By this disposition all communication from the north and west in the usual paths was cut off.

From a consideration of this insult on Government, that by an early move we should instantly convince the insurgents of its ability and determination speedily to disperse them; that we wanted the houses occupied by these men to cover our own troops; that General Patterson was on his march to join us, which to obstruct was an object with them; that a successful movement would give spirits to the troops; that it would be so was reduced to as great a certainty, as can be had in operations of this kind; from these considerations, Sir, with many others, I was induced to order the troops under arms at three o'Clock in the afternoon, altho' the most of them had been so from one in the morning.

We moved about half after three, and crossed the river upon the ice, with the four regiments; four pieces of artillery; the light horse, and the troops of this division, under General Sheppard moved up the river on the ice, with an intention to fall in between Shay's who was on the east side of the river, and Day on the west, and to prevent a junction as well as to cut off Days retreat. We supposed that we should hereby encircle him with a force so superior that he would not dare to fire upon us which would effectually prevent bloodshed, as our troops were enjoined in the

most positive manner not to fire without orders. The moment we shewed ourselves upon the river the guard at the ferry house turned out and left the pass open to us. They made a little shew of force for a minute or two near the meeting house, and then retired in the utmost confusion and disorder. Our horse met them at the west end of the village, but the insurgents found means by crossing the fields and taking to the woods to escape them: some were taken who are aggravatedly guilty, but not the most so.

The next news we had of them, was by an express from Northampton, that part of them arrived in the south end of their town about eleven o'clock. Shay's also in a very precipitate manner left his post a[t] Chickabee, and some time in the night passed thro' Southadley, on his way to Amherst.

As soon as our men are refreshed this morning, we shall move northward leaving General Sheppard here as a cover to the magazines; perhaps we may overtake Shays and his party, we shall do it, unless they disperse. If they disperse, I shall cover the troops in some convenient place, and carry on our operations in a very different way.

Since the State of our finances should be kept in view, and every unnecessary expence avoided, I have written to General Brooks, that he need not proceed; and to General Warner that he need not call more men into the field. If the men under Shays should disperse no men raised in this division will be retained in the field, saving a guard to the magazine at this place.

This letter will be honored by Colonel Jackson, whose great attention, abilities, and judgment, enable him to give your excellency a very perfect account of the state of affairs in these Counties, and of our late movements.

I have the honor to be with the most perfect esteem,  
your excellency's obedient servant

BENJAMIN LINCOLN.

His excellency

GOVERNOR BOWDOIN.

### III. PETITION FROM COLERAINE TO THE GOVERNOR AND COUNCIL.

(Massachusetts Archives, Vol. 190, pp. 321-322.)

The humble petition of the Inhabitants of Colrain now assembled to his Excellency and Council.

May it please your Excellency and your honorable Council

Your petitioners inhabitants of the town of Colrain in the County of Hampshire beg leave to represent to your Excellency and Council our sense of the present alarming situation of public affairs and of the Horrors which we Justly entertain of a general effusion of human blood, which from what has already happened is justly to be dreaded and of which if it further proceeds none knows either the extent or end. Your petitioners pretend not to Justify the practice of flying to arms to

*Documents relating to the Shays Rebellion, 1787* 697

obstruct the itting of courts of Justice or of interfering in matters of civil government in any other way than what is pointed out by the Constitution. But as great numbers for some cause or other have had recourse to arms, many of them persons of reputable Characters in society ; who have been by some means or other led into unfavourable sentiments of Civil Government as at present established, and as their views of personal danger (particularly that of their leaders who have taken their post by voluntary election) disposes them to continue in the same course and as these things are at present upon the point of involving our land in confusion bloodshed and devastation : Your petitioners from a realizing sense of the horrid Consequences of civil war most humbly beseech your Excellency and your honourable Council as the supreme executive of the state that a suspension of military force may immediately take place, and that with your Excellency's concurrence our desires may be presented to the Honorable Senate and House of Representatives at their next Session, that an act of indemnity for all past offences may take place. Whatever discrimination of of Characters might be justly observed among the body now at arms, your petitioners conceive it to be impracticable at present ; and as in battle the sword devoureth one as well as another devastation and ruin will probably fall upon the most innocent and valuable part of a community and the advantages to be gained will be we conceive in no wise answerable to the blood and treasure to be expended in the procuring of them, and we flatter ourselves that the body of the people now in arms upon the prospect of such an act will be willing to return to their allegiance ; Or that if such measures should prove ineffectual with some they will at least strengthen the hands of a constitutional government by detaching from the opposite party the most valuable part of their numbers so as to render any future quelling of insurrections a matter of less difficulty, and future attempts to obstruct the courts of justice will be considered more inexcusable both in the sight of God and the world ; and where any have been misled further opportunity will be given to undeceive as also detect the designs of such as would sacrifice their country's welfare to their own ambition. Deeply impressed with a sense of the duty which we owe to God and to our fellow creatures and with a feeling sense of the Calamities which threaten us, we beg leave to lay this our request before your excellency and Council to be referred to the general Court ; relying on your Wisdom patriotism and steady regard for the public Good as also on the wisdom and Integrity of the honourable legislative body of both houses we intreat that the prayer of this our petition may have a favourable hearing and be granted and Your petitioners as in duty bound shall ever pray.

Colrain Jan<sup>y</sup>. 29<sup>th</sup> 1787  
Signed p<sup>r</sup> Order  
of the Town

SAMUEL EDDY  
GEORGE PATTISON  
ABR'M PENNELL  
OREN SMITH  
JONATHAN M<sup>c</sup>GEE

} Com<sup>tes</sup>  
of  
Colrain



## IV. PETITION FROM GRANBY TO GENERAL LINCOLN.

(Massachusetts Archives, Vol. 190, p. 344.)

To Major General Lincoln Commander of the Militia, now assembled in arms for the support of the Constitutional Government of the Commonwealth of Massachusetts.

*Sir.*

The alarming prospect which now presents itself to us, of our being daily or hourly involved in all the horrors of a civil war, we conceive to be a sufficient apology for applying to the Commander in Chief:— And altho' we have every sentiment of respect for your person, and the fullest and most entire confidence in your abilities as a man—and an experienced military Commander; yet, Sir, permit men, full of the most painful anxiety, on account of the present distressing complexion of the times, to lay before you their fervent desires. The inhabitants of the Town of Granby being sensibly affected with the situation we are now in, and the public in general, did on the 31<sup>st</sup> of this Inst. assemble and vote (being a very full meeting) that inasmuch as application has (according to good information) been made, and is daily making, from a number of Towns in this Commonwealth to the Commander of the militia in arms in favour of Government, that the said Commander will use every possible way and means in his power, as a man, and as an officer, consistent with the Dignity of Government, and his own honour, to prevent the awful destruction of mankind, and shedding the blood of our own Countrymen; and conquer by his Wisdom and not by his arms; and bring our deluded friends to a due sense of their error; and subject them to their duty without the further effusion of blood, if by any means practicable: Therefore voted, that we heartily concur with every such prayer, and every such application; and do join with those who pray and apply as aforesaid.

Test: C Cook, Moderator

GRANBY, Jan<sup>y</sup> 31. 1787

Copy

## V. GENERAL LINCOLN TO THE GRANBY PETITIONERS.

(Massachusetts Archives, Vol. 190, p. 346.)

Hadley Feb<sup>y</sup> 1, 1787

Gentlemen

I am this moment honoured with the receipt of your application of yesterday's date.

I have felt too sensibly for the distresses of those unhappy men, who have been deluded to rise in arms against their Country, in violation of every principle of duty, not to have most seriously contemplated how they might be reclaimed without bloodshed. hitherto our men have

*West Florida, its Attempt on Mobile, 1810-1811* 699

been restrained from firing: Shays has been notified of his danger, and of the consequences which must ensue should he fire upon the troops of Government; his men have been invited to return to their homes and lay down their arms. I hope they will attend to the advice.

I think those Towns, that sincerely wish to put an end to this rebellion, might render essential services in effecting so desirable an object. They should, by their advice, recall their men now in arms; they should aid in apprehending all abettors of them, and all who are yielding them any comfort and supplies:—

this would reduce them to submission and prevent the horrors so much feared.—

I am,

Gentlemen

Your obt<sup>d</sup> Serv<sup>t</sup>

B LINCOLN

Copy

4. *West Florida and its Attempt on Mobile, 1810-1811.*

The following five letters have been kindly supplied by Thomas M. Owen, Esq., of the Post-Office Department, Washington, from his rich collection of manuscript materials for the history of Alabama. They have to do with the history of the short-lived "State of West Florida," which, it will be remembered, arose out of an insurrection in West Feliciana in July, 1810, directed against the Spanish government. Baton Rouge being captured, independence was declared on September 26; but President Madison, by proclamation of October 27, and by instructions to Governor Claiborne, annexed the district to the United States (*American State Papers*, III. 395-398). On December 7 Claiborne took possession for the United States of the district south of 31° as far east as the Pearl River. The district between the Pearl and the Perdido remained in the hands of Governor Folch, of Mobile. Before this transitory republic went out of existence it had set on foot a plan for acquiring this eastward region, by the aid of the American settlers on the Tombigbee River (Washington County, Mississippi Territory) above Mobile. These settlers had been much incensed by the tariff restrictions imposed upon their trade by the Spanish authorities at the mouth of the river. The first letter shows the existence, as early as June, of an organization intended to revolutionize Mobile, ostensibly in the interest of King Joseph; the second exhibits it in a new aspect. The remaining letters show how, before Claiborne's suppression of the infant republic, designs of Kemper, Kennedy and their fellows were frustrated by the coöperation of Judge

Toulmin, Col. Cushing, of the United States army, and Governor Folch.<sup>1</sup> (See Pickett's *Alabama*, II. 236-238.)

Of the foot-notes to the ensuing documents, those which are biographical have been kindly furnished by Mr. Owen.

I. J. P. KENNEDY<sup>2</sup> TO Z. ORSO.

McIntosh Bluff<sup>3</sup> 7th June 1810

Dear Sir

The Gentlemen who will deliver you this is a particular friend of mine. He is a member of the Mobile Society whose object he will explain to you. I sent some time since an agent of that Society to see you with letters and instructions. I know that you are an American at heart. Now is the important moment—I have at my command men and resources. As for the King of Spain he is out of the question. Do you wish to become a free subject of the Emperor of France or of his brother Joseph, you have only to say so and it is done. The bearer of this will explain every thing to you. If you are desirous of embarking in the cause of liberty and of your noble country, make your arrangements with my friend, or meet me at Sawmill creek, where I will explain every thing to you. Name the day when you will see me there say at the house of the Powells, and every thing can be explained and arranged.

Your friend

JOSEPH PULASKY KENNEDY

Mr. ZENON ORSO,  
Mobile.

II. J. P. KENNEDY TO D. PEREZ.

19th July 1810

To the Commandant of the Town of Mobile

Sir

I have been informed that you have in your possession letters of mine relative to an intended attack on the Town of Mobile. As a member of the Mobile Society I can with certainty inform you that the citizens of these counties never will make an attack on that country without the concurrence of the general Government. If the Government should agree to such a thing as an officer I shall hold it my duty to give you

<sup>1</sup> It may be added that a letter of Col. Sparks to Secretary Eustis, dated January 12, 1810 (*Calendar of the Correspondence of James Madison*, p. 635), would seem to indicate that Kennedy's plans were formed and known at that early date; but a comparison with items on pp. 290 and 328 of that calendar causes one to suspect that the date should be July 12.

<sup>2</sup> Joseph Pulaski Kennedy was an early settler in the Mississippi Territory, and an ardent American. He was captain commanding the Mississippi rifle volunteers for 12 months, at Mobile, December 30, 1812; brigade-major to Brig. Gen. Claiborne; and was distinguished at the battle of the "Holy Ground" (in Alabama), December 23, 1813.

<sup>3</sup> In Washington County, on the Alabama River.

timely notice. This Society has its origin in the oppression which we have suffered from the Spanish Government in detaining a country which the Supreme law of the State has declared to be ours. We respect the subjects of the King that was of Spain, and as to yourself I have no difficulty in saying that you have my good wishes for your happiness. But I am astonished at the imprisonment of Z. Orso and the two Mr. Powells, men who never could have had notice of the existence of the Mobile Society men in whom we would not confide. I have friends and relations in that country whom I consider as Spanish Subjects, and as such would treat them. Any man that would change America for Spain never shall be my confidant. But to ease you of your unfounded fears I give you notice by this that on Sunday next I shall set out for the States, and shall not return untill October.

I am Sir with respect

JOSEPH PULASKI KENNEDY,  
Majr. of 8th Regt. of Militia  
of Miss. Terry.

The Honbl. D. PEREZ Commandant of the Town  
of Mobile Louisiana.

III. H. TOULMIN<sup>1</sup> TO J. INNERARITY.<sup>2</sup>

FORT STODDERT<sup>3</sup> 15, Novr. 1810.

Dear Sir,

I recd. a letter this morning from a respectable friend, an officer at Baton Rouge.<sup>4</sup>

<sup>1</sup> Harry Toulmin was the son of Rev. Joshua Toulmin, and was born at Taunton, England, 1770. He became a Unitarian minister, after receiving a thorough education. He was exceedingly bold in his theological and political views, and found it expedient to leave his home. Coming to America in 1793, he began teaching at Norfolk, Va., from which place he went to the presidency of Transylvania University, Lexington, Ky. In 1802 he became secretary of the state of Kentucky. In 1804 he was appointed by Mr. Jefferson judge of the Superior Court for the District of Washington (now in Alabama), Mississippi Territory. This office he held until the creation of the state in 1819. In his high office he was the representative of the United States in this quarter and was preëminently the greatest man of the period in that part of the state of Alabama (then Mississippi Territory). He compiled the *Laws of Mississippi Territory* in 1807, and in 1823 compiled Alabama's first *Digest of the Laws*, etc. He died in 1824.

<sup>2</sup> James Innerarity was a native of Scotland, came to the United States in 1796, and was leading clerk in the celebrated trading establishment of Panton, Leslie and Co., who had been engaged in a mammoth trade with the Southern Indians from the year 1783. This firm had houses at St. Johns, St. Augustine, St. Marks, Apalachicola, Chickasaw Bluffs and Mobile, with its principal establishments at Pensacola. In 1803 Innerarity became a partner. He resided in Mobile, took great interest in all public matters, and in 1817 was president of the commissioners of the town of Mobile. The members of this firm in all of the periods of its existence were Scotchmen. They were influential with the governments under which they lived, and exercised unmeasured control over the Indian tribes with which they dealt.

<sup>3</sup> In Mobile County, Alabama, on the river bank, four miles east of Mt. Vernon.

<sup>4</sup> This is probably the letter of John Ballinger to Judge Toulmin, dated Baton Rouge, November 3, 1810, which is summarized on p. 144 of the *Calendar of the Correspondence of James Madison*. The elections next mentioned are those of the new republic.

He tells me that a general election of Senators and Representatives which was to take place under the new Constitution, would be held on the 10th of this month,—that their councils are much divided,—a part being for the prosecution of the War and a part for waiting the determination of the U. S. and that *nothing but preparations* could be calculated upon until the new legislature met. The great mass of the people want nothing more than to become American citizens—but if the U. S. will not accept them “they will (says he) accept of any other protection that they can obtain. *Succours are now offered* (adds he) by the French equal to our present wants, and many true Americans, who are well acquainted with the cautious policy of the U. S. have no confidence in their interference and are willing to accept. But the majority will not consent to any propositions till they hear from the U. S.”

O, that I had the tongue of an angel, never would I cease to vibrate in the ears of the Spanish officers, that by manly efforts on their part, they should struggle to awaken the U. S. from their lethargy.

Could the proposition for the transfer of Florida come from the Floridian authorities, and that from the highest source, surely the cautious policy of the American Govt. would hold out no longer—and the *knowledge of such an overture* would be such an appeal to the patriotism and Americanism of the new Baton Rouge assembly that they could not resist.

Kemper<sup>1</sup> talks in high style. He even indirectly has the assurance to threaten me with his future vengeance—should he *eventually* be injured by the warnings which I have in several letters given to the people of this country to be aware of being seduced from their allegiance to the laws of the Union.

He maintains his right to invite speculators below the line.<sup>2</sup> He is misled by foolish men among us.

Colo. Cushing with three companies, as we learn by this day's mail is to be at Orleans on the 20 of this month on his way to Fort Stoddert.

Yours very respy,

H. TOULMIN.

JAS. INNERARITY Esqr.

<sup>1</sup> Col. Reuben Kemper, a native of Fauquier Co., Va., an early settler near Pinkneyville, Miss. He was a man of marked individuality, undaunted courage, and great physical strength. He took no pains to conceal his aversion to the Spaniards, and in consequence suffered many indignities at their hands. He was the agent of the revolutionary government of West Florida to the Tombigbee settlements, and among others he had a commission for J. P. Kennedy. In his movements he had the countenance of Col. James Callier, who was in command of the Tombigbee militia. His plans were to capture Mobile. He was in the Louisiana volunteers under Gen. Jackson at the battle of New Orleans, with the rank of colonel. While on a business trip to Natchez, Miss., he died, January 28, 1827.

<sup>2</sup> *I. e.*, the line of 31°.

IV. J. INNERARITY TO H. TOULMIN.<sup>1</sup>

Mobile 22 Novr. 1810

My Dear Sir

Your esteemed favors of the 20, came to hand last night. Every inhabitant of this province certainly owes you the greatest obligations for your endeavors to maintain peace. Gloomy as our prospects are I still hope your exertions will not prove altogether unsuccessful.

Governor Folch arrived here yesterday afternoon. I have had some interesting conversation with him today. He opened himself the subject of our present critical situation and informed me of some decisive steps that he had taken of which I was previously ignorant, but which you will have learnt from a letter written to you by my brother in his name, and which he now tells me to confirm to you in all points. He desires me moreover to add that provided no succours of any kind are given directly or indirectly by any of the inhabitants of your district to the agents of the Convention in their intended attack upon these parts of the province, he will abolish the duties paid at this port on American goods passing up and down the river and the said abolition shall take effect from the day on which he receives from you a notification that the expedition under Kemper and Kennedy is entirely laid aside and abandoned by all the inhabitants of your three counties.

If this grace does not wrest their arms from their hands nothing will remain for him to do but to oppose force with force and the duties will remain as formerly.

He has stated to me that mere motives of humanity have prompted him to this act as it is his desire to save the effusion of blood *between men who will probably soon become citizens of the same community.*

I hope this will arrive in time to prevent your neighbors from crossing the line in hostile array.

The bearer has orders to remain until you can return a decisive answer on this interesting subject. I entertain great hopes that you be able to send a favorable one.

You can communicate this to my friends Col McKee<sup>2</sup> and Captain Gains whom I have not time to write in answer their very much esteemed favors by Davy. Yours &c. J. I.

<sup>1</sup>Toulmin's reply to this letter, dated November 23, is summarized, together with others of his letters, in the *Madison Calendar*, p. 681. On p. 370 of the same is a summary of another letter of Innerarity, of November 24; on p. 298, of a letter of Governor Folch to Captain Edward P. Gaines (the captor of Burr, afterward Major-General), dated November 25, promising the abolition of customs duties mentioned in this letter.

<sup>2</sup>John McKee was born in Rockbridge County, Virginia, of Scotch-Irish parents. About 1792 he is found in the employ of Governor Blount, of the territory south of the Ohio River, as an agent to the Cherokees. Later he was agent to both the Choctaws and the Chickasaws, and it was largely due to his influence that these tribes were with the whites in the Creek war, 1812-1814. About 1819 he located at Tuscaloosa, Ala., and was both an officer in the land office and postmaster at that place. From 1825 to 1826 he represented the middle Alabama district in Congress. He was one of the commissioners to negotiate the Dancing Rabbit treaty with the Choctaws. He died August 11, 1832, in Greene County, Ala. All of his papers and MSS., 1792-1830, consisting of 1205 separate items, are the property of Thomas M. Owen, of Washington, D. C.

It will I think be proper to conceal the underruled lines until the full development of the plan in agitation.

The Honble. HARRY TOULMIN.

V. J. INNERARITY TO J. MCKEE.

Mobile 21st Jany, 1811

My Dear Sir

I wrote you about the middle of last month, informing you of the receipt at this place of the Presidents proclamation for taking possession of the Floridas. As Governor Folch in reply to Colonel Sparks communication on the subject, had intimated that he would not surrender this place without first consulting the Capt Genl. of Havanna, the Colonel thought it his duty to call out the militia, and he actually had them assembled and was on the very point of marching down with them, when Colonel Cushing arriving at the critical time, sent up contrary orders, and thus saved us once more from the firebrands of the Tombigbee.

Colonel Cushings prudent and conciliatory conduct has also in a great measure dissipated those hostile feelings that had been excited here by the previous proceedings, and he and our commandant begin to approximate each other. The Gunboats remain at anchor opposite the town, the troops are cantoned at our plantation, and Colonel Cushing with his family lives in the Dictionary Doctors house. Judge Toulmin was here a few days ago—he has been most abominably ill used by those three worthy gentlemen Kemper Caller<sup>1</sup> and Kennedy, because forsooth, he had set his face against their innocent plans, and had been the occasion of Coll Cushings ordering the militia to be dismissed and thus “slighting their patriotism, and snatching from their hands the prize which they were ready to grasp.” For these horrible crimes, they have abused denounced, impeached, and burnt the poor Judge in effigy, as I have not a doubt they would have done this place in reality had their projects succeeded.

The Judge shewed me the bill introduced by Giles into the Senate on the 18th ulto. from the committee on Floridian affairs,<sup>2</sup> which he does not at all approve of, that is, the first section of it, which annexes this country to the Orleans Territory. Such however is the horror and dread with which the people of this place regard our neighbours the Bigbians that I believe they would generally be pleased with the measure. I myself candidly confess that as a temporary regulation I should prefer it to an immediate connection with Tombigbee, but not so, if it is meant to be permanent. We of this place, have no natural connection with New Orleans, our interests are not common at present, and they will be in oppo-

<sup>1</sup> James Caller emigrated from Warren County, N. C., to south Alabama, then the Mississippi Territory, about 1800; early became prominent; was in the territorial legislature; commanded the whites in the Burnt Corn engagement of the Creek war; and died December 3, 1819.

<sup>2</sup> As to Senator Giles's bill, see Henry Adams, *History of the United States*, V. 319-323.



sition to each other, soon. If we are politically annexed to her, she will feel us as a tumor wasting her body and whose progress she will endeavor to retard. As we must be commercial rivals, she can never feel an interest in our prosperity, therefore it is unjust to subject us to her legislation. Our position with regard to that part of the Mississippi Territory bordering on the river and Pascagola, is exactly the reverse of what it is with regard to New Orleans. We are joined to the former country by the hand of nature, and our interests are one, as those of the heart and limbs, supplying blood and life and motion to each other. There are other parts of Mr. Giles' bill which will occasion animadversion if it passes in its present shape. For instance, when claims to lands under Spanish grants posterior to 1803 shall be laid before the Commissioners, it will be a difficult thing for them to decide on them "according to the laws on the subject actually in force for the Orleans territory" and at the same time "according to equity and justice." The latter would confirm all Spanish grants up to the date of taking possession, or at least to the date of the receipt of the Proclamation, (which was the first official notice given to these inhabitants that they were American citizens,) but the former, that is the law as it now stands, will confirm only the titles granted previous to the 20th Decr. 1803. I have not a doubt however, but this will be corrected, altho' some of our thoroughpaced demos are of a different opinion.

I see Mr. Poydras is endeavoring to get the Orleans territory erected into a State. His imperial and Royal majesty will smile if he succeeds.

I hear there is a great scramble for the loaves and fishes that this poor sand-bank and quagmire may eventually produce. Some of the pretensions are singular, and evidence at least the high opinion that the parties entertain of themselves. What do you think of the learned, intelligent, upright and brave Lieutenant Colonel of the Conventional Volunteers, Joseph Pulaski Kennedy for—a Judge!!! and your friend Mr. Wilson Carman for a Collector!

From this long political letter you will also think I stand pretty high in my own opinion, a point which I shall not dispute with you, but only request you to believe me ever

Your friend

JAS. INNERARITY.

You may make any prudent use of this that you may judge proper.

J. I.

COLONEL JOHN MCKEE

City of Washington.<sup>1</sup>

<sup>1</sup> The address shows that the letter went to Washington City, as directed. It was then forwarded to Fort Hawkins, Creek Agency, arriving there April 3, 1811. It was then forwarded, the second time, to Fort Stoddert, Mississippi Territory, now south Alabama, reaching Col. McKee there on April 17, 1811. From this it appears that the addressee had returned to his post before the letter reached Washington.

## REVIEWS OF BOOKS

*The Mycenæan Age: a Study of the Monuments and Culture of Pre-Homeric Greece.* By Dr. CHRESTOS TSOUNTAS, Ephor of Antiquities and Director of Excavations at Mycenæ, and J. IRVING MANATT, Ph.D., LL.D., Professor of Greek Literature and History in Brown University. (Boston and New York: Houghton, Mifflin and Co. 1897. Pp. xix, 417.)

PROFESSOR MANATT tells us in his preface that his first intention in regard to this book was to produce an English version of Dr. Tsountas's *Μυζήναι καὶ Μυκηναῖος πολιτισμός*, published at Athens in 1893. This intention, however, was abandoned, and in the work now before us, although "the bulk of the material" has been furnished by Dr. Tsountas (partly in the form of manuscript additions to his printed text), the American editor has done so much in the way of re-arrangement, revision and addition as to feel warranted in saying: "there are few pages in it to which I have not made some material contribution." Inasmuch as the new matter from the hand of Dr. Tsountas is not in every case identifiable, the reviewer cannot gauge the exact extent of the American editor's responsibility. But, except for a chapter on "The Mycenæan World and Homer," the word "editor" is clearly more appropriate than "joint author" to describe him. I feel bound therefore to express my conviction that the title-page is somewhat misleading in its suggestion of equality in authorship. But I would not press this point, especially as Dr. Tsountas himself, for all I know, may have sanctioned the form adopted. And it is a pleasure to say that the work of translation and adaptation has been extremely well done. The Greek word for "perhaps" (*ἴσως*) is commonly, and I believe regularly, rendered by "probably," except in one case (p. 323, note 2), where it appears as "no doubt." Otherwise a moderately close scrutiny has enabled me to detect only six or eight misinterpretations: "burnt brick" for "tiles" on p. 43, "have been found elsewhere" for "were found years ago" on p. 119, "e. g." for "viz." on p. 157, and a few more about equally trivial. In this connection I may mention as an infelicity the use of "we" in speaking of matters in which Dr. Tsountas alone was concerned, as on p. 152: "in the tomb at Vaphio we found the teeth of several dogs," and similarly often. Rarely does the reviewer of a translated book glean so meagre a sheaf of *corrigenda*. Professor Manatt's English is real English, not translator's English. When it is added that in place of the eleven plates and the few small cuts offered by Dr. Tsountas the American volume is enriched with twenty-two full-page plates and

a hundred and sixty-nine illustrations in the text, enough will have been said on the relation which the work before us bears to its Greek original.

There are now three valuable books which deal in a comprehensive way with the facts and problems of Mycenæan research. One is Schuchhardt's *Schliemann's Ausgrabungen*, of which a good English translation has been made by Miss Eugénie Sellers. The second is the sixth volume of Perrot and Chipiez's great *Histoire de l'Art dans l'Antiquité*, the volume which deals with *La Grèce primitive*; of this only a grotesque travesty exists in English. The third is the book now under review. As the titles imply, the three works are not exactly conterminous. Schuchhardt centers his account in the life of the famous explorer, to whom, with all his shortcomings, belongs the credit of being the first to reveal to us the Mycenæan civilization. Thus Schuchhardt gives a critical résumé of Schliemann's big and gossipy tomes, with some supplementary matter, the whole arranged topographically. Perrot and Chipiez, in their sumptuous volume of over a thousand pages, are concerned primarily with art, though incidentally they treat of numerous collateral subjects. Drs. Tsountas and Manatt deal systematically, though of course not exhaustively, with all the aspects of Mycenæan culture which are known or can be guessed at. Thus their book is likely to prove the most convenient of the three for the historical student seeking to acquaint himself with the general results already won in this field. The fact that the principal author, a sagacious and modest explorer, is reporting discoveries in which he has himself borne a most important part is a source of added interest. Moreover, this book has the advantage over the other two of being by several years later in date and so of being able to incorporate more recent results of Mycenæan research. Thus Dr. Tsountas has furnished a summary of Mr. A. J. Evans's brilliant essay on *Cretan Pictographs and pre-Phœnician Script*, and has endeavored to minimize the importance, so far as continental Greece is concerned, of the modes of writing there discussed; an appendix gives, after Messrs. Noack and de Ridder, a condensed account of the fortress and palace of Gha in Lake Copais; and, in short, everything important and relevant down to the summer of 1896 inclusive is duly registered.

The student, then, who desires a compact and sober record of the evidence available for the study of Mycenæan antiquity will find a safe guide in this volume. As to the accompanying interpretation of the evidence it is not possible, in the nature of the case, to speak so positively. In regard to a few points of architectural archæology Professor Dörpfeld's short Introduction supplies a valuable criticism on the views of Dr. Tsountas. But it may be that the non-specialist will not get an adequate notion of the uncertainty still besetting the more important historical problems of the subject. The date of the Mycenæan civilization does indeed seem established upon secure foundations, Mr. Cecil Torr to the contrary notwithstanding. But as much cannot be said for the details of that civilization. Were such objects as the dagger-blades of Mycenæ and the gold cups of Vaphio manufactured in Mycenæan workshops or

imported from abroad, say from Phœnicia? In the latter case their supposed evidence as to Mycenæan manners and customs is annihilated. Dr. Tsountas is in accord with most investigators of to-day in holding to the former view, but the authority of Helbig has recently been thrown into the other scale. *Sub judice lis est*. Again, were the people who built the walls and palaces of Tiryns and Mycenæ and the beehive tombs of Argolis, Attica, Bœotia and so on, of Hellenic or alien stock? Here too the tendency has latterly been strong in favor of the former alternative, but until a more convincing proof can be made out than is presented in the chapter on the "The Problem of the Mycenæan Race," laymen will do well to hold their minds in suspense on this question.

It is hardly necessary to say that the appearance of the book is excellent. The typographical errors that I have noted are limited to numbers and to foreign words. The date 1723 assigned to Wheler's *Journey into Greece*, instead of 1682, can hardly be fathered on the printer. Mention should be made of the successful reproductions of the reliefs on the Vaphio cups which adorn the cover.

F. B. TARBELL.

*A History of the Hebrew People from the Division of the Kingdom to the Fall of Jerusalem in 586 B. C.* By CHARLES FOSTER KENT, Ph.D., Associate Professor of Biblical Literature and History, Brown University. (New York: Charles Scribner's Sons. 1897. Pp. xvii, 218.)

THIS work, the first volume of which, covering the period from the settlement in Canaan to the death of Solomon, appeared in 1896, is an outline of the history of Israel from the modern critical point of view, adapted to the needs of college students, university extension classes, Sunday-school teachers, and the like. The author has aimed at nothing more than a brief and popular presentation of the results in which recent historians are substantially agreed, and this task he has accomplished with no small measure of success.

The volume before us is well arranged, in good proportion, clearly written and interesting throughout. In the main it may be commended as a sufficiently accurate account of the present state of knowledge and opinion. Its defects are chiefly such as arise from haste and too implicit reliance upon the work of others. Some vexatious errors would have been avoided had the author consulted the sources for himself. Thus, on p. 52 we read: "Meander [*sic*] of Ephesus also refers to a drought during the reign of Ethobalos (Phœnician, Ethbaal), King of Tyre," etc. *Meander* is doubtless an oversight in proof-reading, of which there are many other instances (Phraotes, Ashtarte, Jehoiakin, Nabuzaradan, Recabites, Ebed-meleck); the king's name is Ἰθὺβαλός; *Ethbaal* is not Phœnician, but the pronunciation of the Hebrew Bible, based on an erroneous etymology. On p. 145, in the translation of an Assyrian inscription, the name is written *Ethobal*—a purely fictitious form—instead

of *Tuba'lu*. On p. 48 Ethbaal is described as "the ex-priest of Baal." According to Menander he was a priest, not of Baal, but of Astarte; and as the inscription of Tabnit shows, there is no reason to imagine that in becoming king he ceased to be priest.

In things Assyrian Professor Kent occasionally adheres to opinions which the rapid progress of learning in this new field has set aside; for example the identification of Sepharvaim with Sippar (p. 106 f.), or of Samsimuruna in an inscription of Sennacherib with Samaria (p. 145). The defeat of Azariah of Judah by Tiglath-pileser in 739 or 738 (pp. 99, 126), though still maintained by McCurdy, ought not to be set down as an established fact.

Nor is the author always sufficiently cautious in matters of Israelitish history. Such a statement as that the principles underlying the Hebrew commonwealth were essentially democratic (p. 86), and that the king was chosen by the people to be their servant (p. 87), cannot fail to give the modern reader a wholly erroneous idea. The consequences of Solomon's rule (p. 20), and the division of the kingdom (p. 24), are, to say the least, strongly exaggerated. That the sacrifice of the son of the King of Moab (2 Kings iii. 27) only "aroused the superstitious fears of the allies, and proved the signal for their retreat" (p. 43), is a strange misinterpretation of the reticence of the Hebrew historian. In the description of the religion of Israel there are numerous inaccurate or highly questionable statements, such as, that the *cinædi* in the temple in Jerusalem were consecrated to the licentious rites of Baal and Astarte (p. 177); that the priests of the high-places were appointed by the kings of Judah (p. 178); that the introduction of foreign cults in the seventh century was due to deep-seated distrust of Jehovah (p. 161, cf. 162), etc. The "black-robed" priests of Baal (p. 174) are a figment of medieval rabbinical etymology. On p. 79 we are told that tradition ascribes Isaiah xiv., xv. to Jonah ben Amittai; this "tradition" originated with Hitzig, in 1831.

In the list of authorities in the appendix there are some conspicuous omissions, the most remarkable being the name of Wellhausen; Graf's *Jeremiah* is not mentioned, while Cornill is said to have written one of the leading commentaries on the book. In a second edition it is to be hoped that these and similar blemishes may be removed, and that at the same time the style may be submitted to a severe revision. Of the need of such a revision one illustration must suffice. Speaking of the pool and conduit of Hezekiah (2 Kings xx. 20), the author writes thus (p. 141): "This work may be identified with the rock-cut tunnel, discovered in 1880, which conducts the water which flows from the present Virgin's Fount, south of the Temple hill, to the pool of Siloam, which was within the ancient city walls, and within which was found the ancient Hebrew inscription describing the process of construction."

GEORGE F. MOORE.

*Bibliotheca Historica Medii Aevi.* Wegweiser durch die Geschichtswerke des europäischen Mittelalters bis 1500. Von AUGUST POTTHAST. Zweite verbesserte und vermehrte Auflage. (Berlin: Weber. 1896. Two vols., pp. cxlvii, 1749.)

SCHOLARS who have been brought up on Potthast find difficulty in understanding how the older men did such excellent work without the guidance he affords. The old edition, in spite of its age, has been the most useful tool which we possessed. When, about two years ago, it became known that Potthast had revised his work and would soon publish a new edition, there was general rejoicing.

In this second edition, except for minor changes, the order and scope of the work remain the same as in the first, *i. e.*, alphabetical lists of general and special collections, of the separate editions of all narrative sources for the period from 375 to 1500, and of the lives, etc., of the saints. Under each source we find the familiar indications of manuscripts, editions, translations and *Erläuterungsschriften*. The appendix gives the lists of sources for the various countries and periods in thirty-two main divisions. In this appendix Potthast has wisely omitted the lists of popes, emperors and bishops which were in the supplementary volume to the old edition. These lists are so easily accessible in other publications that it would have been a work of supererogation to include them here. Although by these omissions and in many other ways space has been economized, the new edition is more than twice as voluminous as the old.

To turn to details, the compiler has included some documentary sources, which can not be classed under any of his headings. As the choice has been purely arbitrary and only a very few are given, it would have been wiser to omit all. No scholar uses this work for guidance to such material. The lists of manuscripts which follow some of the sources have a certain utility, but they are far from complete and do not form a necessary part of the work. The student who needed this information could generally get it more exactly from the different editions and from the *Erläuterungsschriften*. The other details are given in a most satisfactory manner. Although there are omissions, the work as a whole is surprisingly accurate and trustworthy, if we consider the thousands of facts stated. The dates for the authors and for their separate works, the editions and translations, and the *Erläuterungsschriften* are recorded with the most painstaking care. When one remembers that the last are scattered in general histories, periodicals, university dissertations, school programmes, occasional pamphlets, etc., written in different languages, one marvels at the industry of the collector and appreciates the value of the work in this respect. By these lists Potthast furnishes good bibliographies for many subjects—a feature of the work too often ignored by students. The only drawbacks are that these bibliographies are necessarily unannotated, and for the sake of completeness works of no critical value are included.



Mistakes are inevitable in such a work. Yet in indicating them, one feels almost an ingrate. When so much has been done by a single man for the scholars of the whole world, one hesitates to point out faults in details. But the most sincere tribute to the value of the work is to add one's mite towards its perfection. Fortunately two excellent reviews have appeared, which make the task of other reviewers lighter. One of these was by the late Professor Winkelmann in the *Historische Zeitschrift*, Vol. 76; the other, by Vidier in *Le Moyen Age* for April, 1896. Although these are reviews of only the first half of the first volume, some faults which extend through the work are noted and many errors are corrected. It seems strange that, although these appeared some months before the final half-volume was published, Potthast did not enter their corrections in his "Berichtigungen und Nachträge." This is indicative of one of the weaknesses of this compilation. It is the work of one man who has not cared to get the coöperation of other scholars, especially of those in foreign countries. M. Vidier's review, although animated by indefensible harshness, shows how necessary such coöperation was.

In contributing the sheaf which I have gleaned, I omit all errors which I have seen noted in any previous review. Besides these two reviews mentioned above, many others have appeared, contributing in greater or less degree to the perfection of the work.

Of sources, all the works included in Vol. V., Part II., of the *Recueil des Historiens des Croisades* are omitted, although this volume appeared more than a year before the *Bibliotheca* was completed. There is no space to give these with their editions and *Erläuterungsschriften*, but it is well to note that in this volume we have for the first time good editions of Fulco, Gilo and Benedictus de Accoltis. Other omissions are the work of Oliverius von Paderborn in Vol. 202 of the *Bibliothek des literarischen Vereins*, Tübingen, 1894, and the *Predigten des H. Bernhards* in Vol. 203 of the same collection, 1894. The edition of Bernardus monachus Francus in Michel et Wryght, *Relations des Voyages*, is omitted. Some of the entries under "Charta" do not belong in such a work, but if included at all, the entries should be fuller and more exact. Where others of minor importance and of similar character are noted, the omission of Magna Charta is peculiar.

In the *Erläuterungsschriften* Potthast quotes certain general works, such as the *Histoire Littéraire*, Ebert's *Allgemeine Geschichte der Literatur*, Hardy's *Descriptive Catalogue*, etc., for some sources, but not for all which are especially discussed in these works. The choice seems to have been wholly arbitrary. Balzani's *Early Chroniclers of Europe: Italy*, is quoted sometimes, but more frequently in the Italian version. The works by Masson and Gairdner in the same series seem to have been neglected. Among special works omitted are, for:

Bernardus Claraevallensis, Kugler, *Neue Analecten zur Geschichte des zweiten Kreuzzugs*.

Carmen Ambrosii, Monod and Paris in *Revue des Sociétés savantes des Départements*, Ser. V., Vol. VI., and *Revue Historique*, Vol. III.



Chevalier au Cygne and Conquête de Jérusalem, Pigeonneau, *Le Cycle de la Croisade*.

Cinnamus, Kugler, *Neue Analecten*, as above.

Chronica regia Coloniensis, Fischer, *Kreuzzug Friedrich's I.*

Chronique de Godefroid de Bouillon, Kugler in *Historisches Taschenbuch*, Sechste Folge, VI.; Froboese, *Gottfried von Bouillon*, Berlin, 1879; and compare Potthast, p. 533.

Gesta Ludovici, Kugler, *Analecten zur Geschichte des zweiten Kreuzzugs*.

Guilelmus Tyrius, Dodu, *Histoire des Institutions monarchiques dans le Royaume latin de Jérusalem*, 1894, pp. 2-12.

Guillaume de Machaut, P. Paris, *Le Livre du Voirdit de G. de Machaut*, Paris, 1875; G. Paris in *Revue Historique*, Vol. IV., p. 215.

Jacobus de Vitriaco, Crane, *Exempla of Jacques de Vitry*.

Joinville, Müller, *Chips from a German Workshop*, Vol. III.

Ricardus canonicus, Fischer, *Kreuzzug Friedrich's I.*

Stephanus de Borbone, Lecoy de la Marche, *La Chaire française*.

Villehardouin, Pears, *Fall of Constantinople*.

For several of the saints, La Borderie's different works have been neglected. In the translations there are very curious omissions. Potthast gives three German translations of St. Augustine's *Confessions*, but none into any other language, and he names only one commentary. He may have been terrified by the amount of space necessary to make the entries even relatively complete. He does not seem to have known of the various series of the Fathers in English and French translations. We find no translations mentioned under St. Jerome, Sozomen, Theodoret and many others. Eales's translation of the letters of Bernard of Clairvaux is not entered under the *Epistolæ*, and under the saint's name, in Part III., is given as a translation of his entire works. The *Treuga Dei*, entered on page 1071, which does not belong in this work, has been translated in Henderson's *Select Documents*. These are only examples of many translations which have been omitted. Of course, translations are of little value to a scholar and, unless he is engaged in teaching immature students, he may well be pardoned if he is entirely ignorant of their existence. For minor errors, unimportant but troublesome, such as wrong references, misprints, etc., there is no space in this review.

Yet when we have gathered together all the mistakes already noted by reviewers and several hundred more, which may be found, the total result compared with the accurate statements of Potthast will be an extremely small number. His work is, and will remain, the most valuable guide to the period. And here a criticism is permissible on the form of the book. Such a volume must necessarily be revised constantly by each student for the sake of his own work. Additions will be numerous. But the volumes have been published with very small margins and are unfitted for such additions. A generation intervened between the publication of the two editions. Can we hope to have a revision of such a work even as soon in the future? In the meantime the volumes, already large, must be increased in bulk by interleaving in order to be serviceable.

DANA CARLETON MUNRO.

*The Red Book of the Exchequer.* Edited by HUBERT HALL, F. S. A., of the Public Record Office. [Rolls Series.] (London: H. M. Stationery Office. 1896. Three vols., pp. ccllxxxix, 1366.)

THE number of "Chronicles and Memorials" announced for future publication at the end of the list of the Rolls Series has now dwindled down to the Year Books and Glanvill's *Tractatus*, and it is quite certain that the latter work will not be published. With the exception of an occasional Year Book, only calendars, lists, and indexes of records will henceforth appear in this series. While we fully appreciate the value of the calendars which have recently been published, we cannot help feeling some regret that the policy of the Master of the Rolls now excludes the printing of the records themselves. The Red Book might well form the first of a series of new publications, which should include such records as the Book of Aids and Kirkby's Quest, and a good edition of the Testa de Nevill.

Mr. Hall's edition of the Red Book will be heartily welcomed by students of English history. It is difficult within a limited space to indicate the scope, variety and value of its contents. There were many Red Books in the Middle Ages; to those enumerated by Mr. Hall we may add the two Red Books of Bristol, the two Red Books of Sandwich, the Red Book of the Earls of Ormond, and the Red Book of the Earls of Kildare. The earlier portion of the Red Book of the Exchequer was compiled about the year 1230 by Alexander of Swereford, and this part of the work seems to have been transcribed from an older exchequer register. Many additions were made from time to time, some of them as late as the sixteenth century. The Red Book contains charters, inquiries, statutes, ordinances, deeds, correspondence, genealogies, surveys, fiscal accounts and exchequer precedents. From one point of view it is a Feodary: it determines the liability of tenants as regards military service, scutage, or other assessments based on the knight's fee. Viewed from another aspect, it is a Cartulary, a register of surrenders of land to the crown, exchanges and quit-claims. It is also an Entry Book of choice state papers, diplomatic documents, statutes and other public acts of great historical value, most of which deal with questions of fiscal interest. Finally, it is a Precedent Book, containing oaths used at the exchequer, forms of writs, and a great variety of other information that might be useful in determining the privileges and liabilities of the officers of the exchequer. The material contained in the Red Book is so extensive that Mr. Hall has been able to print only the most important documents, together with a full table of contents of the manuscript volume.

The Red Book is of greatest historical importance as a feodary. More than two-thirds of the material printed in Mr. Hall's edition consists of records relating to feudal tenures, most of them belonging to the reigns of Henry II., Richard I. and John. This part of the work contains the celebrated "Cartæ," or certificates of knights' fees returned

by the barons in 1166, which Mr. Round has so skillfully turned to account; lists of persons subject to the payment of scutage (A. D. 1156-1252); inquisitions concerning knights' fees and honors, and a list of serjeanties, in the reign of John; lists of knights' fees under the first four Angevin kings; abstracts of Pipe Rolls (A. D. 1154-62); and lists of castle-ward services and rents in the reigns of Henry III. and Edward I. The study of these valuable records, most of which are now printed for the first time, ought to add much to our knowledge of the history of feudal tenures in England.

Volume III. contains many abstracts from the Red Book illustrating its value as a cartulary, an entry book or register of state papers, and a precedent book of the exchequer. Here we find the "Constitution of the Royal Household" (circa 1135); privileges and exemptions claimed by officers of the exchequer; a treatise of the fourteenth century on the mint and exchange; a glossary of Anglo-Saxon law terms, intended to elucidate the archaisms occurring in Anglo-Norman charters; statutes and ordinances regulating the internal economy of the exchequer and its relations to the king and to his subjects. These various documents throw much light on the machinery of English fiscal administration in the thirteenth and fourteenth centuries.

The most important records in Volume III. are the ordinances framed by Edward II. and his council in 1323-26. They introduce reforms which aim to improve the discipline of the exchequer officers, to increase the royal revenue, and to remove certain abuses which had aroused the discontent of the people. There are three separate ordinances of the years 1323, 1324, and 1326. The first is concerned with the internal administration of the exchequer; its business is defined; the hearing of pleas is regulated; the compilation of the Pipe Rolls is simplified and improved; the duties of the two remembrancers are carefully prescribed; and measures are taken to prevent flagrant abuses of accountants and to increase the staff of officers. This marks the first considerable enlargement of the exchequer since the time of Henry II. The main object of the ordinance of 1324 was "to ensure the due collection and audit of the royal revenue, as well as to put an end to the more glaring evils of purveyance," and to allay the popular discontent which the officers of the royal household had excited by resorting to exactions like prisage and preëmption. The ordinance of 1326 shows that the two previous reform measures had not accomplished their object; that the financial administration of the kingdom was still in a very unsatisfactory condition; that the sheriffs and other officers who had to render accounts at the exchequer were guilty of irregularities, dishonest practices and oppression, in connection with the collection of the royal revenue; and that the barons of the exchequer were often guilty of corruption. When the history of this reign is rewritten, these elaborate ordinances of 1323-26 will help to explain the movement which ended in the deposition of Edward II.

Many other interesting matters are discussed by Mr. Hall in his long

and learned preface. He gives us much information concerning feudal tenures and the history of the exchequer. To consider all the questions which he examines would require many pages. We can call attention to one topic only—his discussion of scutage. He deals in detail with the history of the various scutages of Henry II.'s reign, but we are particularly interested in his explanation of the nature of scutage. Briefly stated, his views on this subject are as follows: Before Henry II.'s time scutage was a fixed sum levied as a tax upon all the military tenants of a barony, and especially upon church tenants; it is not yet an assessment on the knight's fee. Early in the reign of Henry II. scutage in its later and proper sense is introduced. It is not, however, as most writers assert, a commutation of the personal service of tenants-in-chief, but a tax levied by the lord on his tenants (sub-tenants of the crown) by virtue of the royal writ *de scutagio habendo*. The tenant-in-chief must perform his military service, "the value of which far exceeded in all times the average value of scutage." If he does not perform his service, he must pay a heavy fine to the crown. If he renders personal service or if he pays a fine, he may or may not obtain permission from the king to recoup himself by the levy of a scutage on his tenants. Mr. Hall then adds that "the crown eventually received this scutage money either at the hands of the lords or by those of the sheriff" (page clix). It is difficult to reconcile this assertion with statements that precede and follow it; for example, on pages clx. and cxcii. Mr. Hall says that the scutage would go to the lord unless it were assigned to the crown by the lord. This part of the preface was doubtless printed before the publication of Pollock and Maitland's *History of English Law*. Both works agree in rejecting the old view, that scutage was a commutation of the personal service of the tenant-in-chief, and in maintaining that scutage was often collected by the crown from the under-tenants even when the lord had performed his service. Both works fail, however, to make clear the relations of these under-tenants to their lords and to the crown as regards the payment of scutage. It is evident that the last word on this subject has not yet been said.

We fear that we have not done justice to Mr. Hall in this meagre outline of the contents of his work. Historical students must feel under great obligations to him for the task that he has so well achieved. The careful editing of such a collection of records requires an enormous amount of painstaking labor, which few persons are equipped to perform or have the courage to undertake.

CHARLES GROSS.

*The National Movement in the Reign of Henry III., and its Culmination in the Barons' War.* By OLIVER H. RICHARDSON, Professor of History in Drury College. (New York: The Macmillan Company. 1897. Pp. qiv, 235.)

THE political history of the reign of Henry III. has been often told; and the vicissitudes of the struggle for the charters have been described

at length by Bishop Stubbs with painstaking regard to constitutional details. Still, in tracing the causes of the "national movement" to its culmination in the Provisions of Oxford and the Barons' War, clearing the way for the great statutes and the settlement of the representative system under Edward I., Professor Richardson has rendered a distinct service. The selection of the right point of view for understanding the forces which drove the people to action has given him a decided advantage, even in the handling of often-used materials; for the crisis came when it was perceived that there was imminent danger of the "denationalization of England" through the policy of the pope and that of his facile instrument, the devout and fatuous king. The author's object is to "portray, first, those movements which tended to denationalize the church and state of England by perversion of the English constitution and by the introduction of the political doctrines of thirteenth-century France and the Empire-Church; and second, those counter-movements which resulted in the complete triumph of the national principle as manifested in the dim beginnings of the revolt from Rome, in the completion of race unity, and the establishment of the constitution upon a basis both national and popular." Throughout, the investigation rests mainly on the chronicles and other contemporary writings; and the author has not failed to realize his hope to "catch the spirit of the time from the pages of the historians who lived among the events which they so vividly describe."

The work comprises three chapters. The first chapter, in two parts, deals with the "Primary Forces." In the first part is shown how the elements of Anglo-Saxon nationality, political and ecclesiastical, were preserved under William I. and his successors. The worst features of continental feudalism were prevented at the "Gemot of Salisbury Plain." Speaking broadly, from the Conquest "to the loss of Normandy under John, good order was maintained by the union of crown and English people against the baronage, but at the expense of liberty: from the loss of Normandy to the reign of Edward I. liberty could be secured only by the union of barons and people against the crown, but at the expense of good order." So also the Anglo-Saxon church, though the child of Rome, was peculiarly national in character. The "identity of interests established at that time between the masses of the clergy and the people" was not permanently shaken by the Norman Conquest, notwithstanding the disastrous consequences of the separation of the ecclesiastical from the lay jurisdiction. This result was mainly due to the "admirable position of William I. and Lanfranc toward one another" and to the fact that the "bulk of the lower clergy remained Saxon and retained the Saxon speech." The second part of the chapter gives an estimate of the influence of the friars, a small body of whom made their advent in England on the 11th of September, 1224, and in a little more than thirty years had increased in number one hundred and forty fold. This is one of the most interesting and original contributions which the book contains. The friars were active propagandists, whose influence was mainly felt

in the great towns which had been avoided by the old monastic orders. They stood for education and for moral, religious and social reform, basing "their appeals or instruction upon experience rather than on theory." Just "as the doctrine of Wycliffe undoubtedly fostered at a later date the social tendencies inherent in the masses, so at this early period the thoroughly Christian democracy of the mendicant friars fostered the growth of the city commune, which—in London especially—played such an important part in the Barons' War." But a surer proof of their political leanings is seen in the "mutual relations of the three great men to whom, more than to any others, the foundation of a national-ecclesiastical party was due,—Adam Marsh, a Minorite and the soul of the University of Oxford in his day; Robert Grosseteste, the great bishop of Lincoln; and Simon de Montfort." From their preserved correspondence the influence of the wholesome political ideas of the friars upon Earl Simon is here clearly established.

"The forces which roused England to armed resistance" is the subject of the second chapter. This is arranged in eight parts, each dealing with a distinct force, and in bulk constitutes one-half the entire book. After an interesting discussion of the influence of the contemporary political literature—the most important part of which comes from the friars—the alienation of London and the alienation of Simon de Montfort from the crown are in turn considered. Then follow in the fourth, fifth and sixth parts the denationalization of England with regard to the state, the relations of the church and the pope, and the relations of the church and the king, respectively. Very vividly the author has described the invasion of the greedy horde of royal relatives and that of the hungry throng of ecclesiastical placemen. The fatuity of the king and the arrogance of the pope are well-nigh incredible. Roman extortion began to reach the climax under Innocent IV., whose success in this regard emboldened him to exclaim at the Council of Lyons, 1245, "Verily England is our garden of delights; verily it is an unexhausted well; and where many things abound, from the many can much be extorted." The folly of the king in the affair of the Sicilian crown, and the ignominious failure of the Welsh war, are the forces next considered in the remaining two parts of this chapter.

In the closing chapter are treated the outbreak and the culmination of the national movement. No attempt can here be made to review the author's discussion of the Provisions of Oxford or his account of the civil war. The reader will find relatively little here not already familiar to him in the second volume of Bishop Stubbs' great work. The concluding section, however, on "Parties and Principles," is of more interest, especially the analysis of the contemporary poem entitled the *Battle of Lewes*, which stands as a signal proof of the advanced teachings of the friars regarding the principles of limited monarchy and constitutional liberty.

GEORGE ELLIOTT HOWARD.



*Select Cases in Chancery, A. D. 1364 to 1471.* Edited by WILLIAM PALEY BAILDON. [Selden Society.] (London: Bernard Quaritch. 1896. Pp. xiv, 195.)

THE Court of Chancery has this special interest for Americans, that we ought never to have had it. The court arose in England from accidental causes which at first had no existence with us. There it was the result of the "hardening" of common-law process, in the thirteenth century, into forms of action, and of the great inequality which existed between the king's subjects. The "fathers" of the republic did not know that; they supposed that the system of common law and equity was the consummate flower of civilization. Had they known what, thanks to such books as the Selden Society and the newer historians are giving us, we in our day know, the Court of Chancery would probably have run its course, and become a thing of the past, in England alone.

The present volume is a continuous commentary upon the need in England of the court in question. It contains 147 petitions in chancery, from the year 1364 to the year 1471, illustrating about equally the two causes (above mentioned) for the existence of the court.

The second of these causes (we pass over the first for want of space) never involved any principle of equity jurisprudence; it was only a matter of persons; common law as distinguished from equity was administered in chancery for the poor and the weak. This common-law side of the chancery, though already destined to disappear, is constantly in evidence in the present volume and in not a few interesting cases. Most of the cases of the kind, as in the calendars of chancery, are complaints of assault, maiming, threats, and such-like violence, for which redress could not be had in the common-law courts only because the defendants were strong, and the plaintiffs were weak; the defendants overawed the courts, or in some way avoided them, and the plaintiffs had none to help unless the chancellor, "for God's sake and in work of charity," raised his arm. His arm was the king's. We are afraid that Mr. Baildon has made some of these cases more difficult to understand than they really are. To No. 36 there is a note that "no reason appears why the chancellor should be asked to interfere in this case." But the case, we venture to think, was only the familiar one of power and oppression, on the common-law side of the court. The ground of jurisdiction, that the suppliant could not obtain justice at common law because of the power of the defendant, is not in terms alleged, but the allegation is often omitted in cases in which it is fairly to be inferred as it is here. "Beseecheth one Thomas de Bridesall," runs the complaint, "that . . . there came one John de Bulmer, by the order, scheme and advice of Robert Bulmer, his father, and William, his brother . . . with *thirty people* of their covin, arrayed in manner of war," and entered the suppliant's tenements and ousted him, etc. Cases 43, 49, 60, 62, 64, 66, and others, are of the same category. Case 60 is a highly realistic example. John Lyndewode, merchant, complains that while on his way to London to pay his custom



at the Exchequer, various persons named and many others unknown, "some of them arrayed in female clothes, with swords, bows, clubs and other harness" seized him and beat his servant, so that he lost his servant's service. Formal allegation of jurisdiction was unnecessary.

On the whole Mr. Baildon's volume contains little that can be called new, but much that is highly interesting and valuable. Every case deserved to be printed. Mr. Baildon's own work is excellently done; his introduction is a first-rate piece of work and will be found of great help both to the lay reader and to the student and teacher of English institutions. The Selden Society has given us no more acceptable volume than this.

MELVILLE M. BIGELOW.

*A History of the Administration of the Royal Navy and of Merchant Shipping in connection therewith from MDIX to MDCLX.*

With an Introduction treating of the Preceding Period. By M. OPPENHEIM. (London and New York: John Lane. 1896. Pp. xiii, 411.)

THE word administration, to whatever subject applied, is a large term, embracing very numerous and often divergent details. This is no less true of naval affairs than of others, and a History of Naval Administration, extending as this does over several centuries preceding the definite and limited period named on the title-page, necessarily includes the mention of so many different matters as to produce at first sight the impression of a set of statistics and of miscellaneous information to which unity of idea is scarcely to be imparted. Nevertheless, naval administration lies at the bottom of naval efficiency. Due credit can scarcely be given to the warriors upon the sea, or due allowance for their shortcomings made, unless there be some previous understanding of the difficulties under which they have labored, owing to the faulty administration of the governments behind them.

To a naval officer this will be perhaps the most instructive feature of Mr. Oppenheim's comprehensive and meritorious work, the production of which, he tells us in the introduction, has required five years, for the accumulation and digestion of the material. The subject itself, it is to be feared, is only incidentally of much interest, except to a limited class of readers. Nevertheless, independent of its own importance, there are scattered profusely throughout the work indications of historical insight, suggestions of the reasons and bearings of things, and not a few incidents of an anecdotal character, which will repay any one who reads, either for a particular purpose or for general knowledge of the subject.

Of the four hundred pages the author has taken for his treatment, forty-four, one-tenth, are allotted to an outline sketch of naval administration prior to 1509, when the main subject begins with the accession of Henry VIII. This monarch first gave to the royal navy the place in the statesman's scheme, required by the insular position of Great Britain, and by the contemporary conditions, which he clearly recognized; and he also,

just before death removed his own guiding hand, constituted for the new service a system of administration, from which derive by direct descent, though with occasional admixture of other elements, the methods now in vogue. "There is very much less difference," says Mr. Oppenheim, "between the great and complex administration of to-day and the Navy Board of 24th April, 1546, than between the Board of 24th April and what existed the day before. Within the twenty-four hours the old system had been swept away and replaced; its successor has altered in form, but not in principle." Henry VIII. died in January, 1547.

Prior to the Norman Conquest the English navy lacked consecutive existence. "It was essentially a coast-defence force," the author tells us, "mustered temporarily to answer momentary needs." Under such a condition, administration was necessarily spasmodic, not only in practice, but even in idea. With the conquest came the condition that the English Channel separated the two parts of the dominions of one sovereign, to the due administration and control of which command of the water was decisively necessary. The idea of a permanent naval force thence naturally arose, but its first form was not that of a permanent national force devoted exclusively to naval purposes. It was rather that of a permanent arrangement, by which the ordinary shipping of the kingdom, on emergency, could be at once available, by recognized institutions, to serve the king's purposes. "For nearly two centuries this duty was mainly performed by the men of the Cinque Ports who, in return for certain privileges and exemptions, were bound, at any moment, to place fifty-seven ships at the service of the crown for fifteen days free of cost, and for as much longer time as the king required them, at the customary rate of pay." The analogy of this system to the underlying idea of feudalism is readily apparent. It is probable also that the inadequacy of the galley, the prevalent war-ship of the Mediterranean, to the weather conditions of northern seas, prevented the development of a purely military naval force according to the idea of the age, and so retarded the differentiation of ships of war from ships of burden.

The first sign of naval administration under this system is found in the reign of John, "in the official action of William of Wrotham, a cleric, and the first known 'keeper of the king's ships.'" The "king's ships" in this sense were then properly so styled, being the personal property of the sovereign, used either for his own purposes, or, when otherwise idle, hired at times to merchants for commercial voyages. The office of keeper of the ships probably derives from before John, under whom it first appears. From it descends the secretaryship of the admiralty, now the oldest administrative employment in the British navy.

The growing power of France through the progressive consolidation of the kingdom, and the union to it of Brittany, with its long Channel sea-coast and useful harbors, made invasion from England far less possible in the days of Henry VIII. than it had been in the previous century. To Henry's own ambition, to make England an effective factor in Continental affairs, was opposed the aggressive policy of his contemporary,

Francis I., who fortified his Channel ports and brought fleets thither from the Mediterranean to contest the command of the sea. Able as Henry undoubtedly was, the maintenance of a standing navy was thus imposed upon him by necessity as much as recognized, antecedently, by his intelligence, as the natural and proper means by which the power of England could be exerted most effectively. Personally he was interested in ships, in nautical affairs. Under these influences the navy during his reign was so greatly enlarged that it may almost be called a new creation.

The increase in numbers, and the more extensive and prolonged services performed, demanded a more elaborate and elastic administration than that of a single official, under whom were gradually accumulating, by necessity, subordinates or associates, who may have been nominally dependent upon him, but were outgrowing the control of one man, and yet were independent one of another. Speaking of the clerk of the ships in the early part of Henry's reign, the author says, "although the chief administrative officer, he was now by no means the only one, though it is not easy to define the exact duties and responsibilities of his associates." Associates in such positions tend to independence; independence to anarchy. It is the natural tendency of what is now known as a bureau system. Henry VIII. applied to it as a remedy the constitution of a board. The evils of that system are also familiar. It is slow, discursive, and to a certain extent eludes personal responsibility; but properly organized, so that there cannot be a tie, it promotes unity and continuity of action, and obviates hasty and contradictory movements made by men who owe no allegiance to each other, but only to a common head, who may have less knowledge and less character than any one of them. For good or for bad it has been the administrative system of the British navy since the reign of Henry VIII.

It is impossible to go into the infinite details given by Mr. Oppenheim, upon which must be judged the general success and integrity of that administration since Henry's day, and up to the Restoration, where the present work ends. The personal character of the sovereign, or of his prime minister, in that day, was reflected necessarily in the constitution of the Navy Board. That varying constitution of the board, the imperfect moral standards of the day, the recurring financial embarrassments of the state, which forced officials to pay themselves by speculation, all cloud the issue as to the merits of the system itself. Upon the whole, its justification as a system may be rested upon the success which attended it under the Long Parliament, and in the early days of the Protectorate. Men's principles were then strung up under the lofty ideas of the struggle against tyranny; fit men were chosen under the pressure of stern necessity; money was sufficient through constant confiscation of the property of malcontents. The navy thrived; the flag was seen and respected in every sea; the seamen were, comparatively, healthy, contented and disciplined. For details the reader must be referred to the work, sure that, amid much dry detail, he will find much of interest. One forgotten fact may be cited as showing the good and bad results of naval admini-

stration. In the reign of Charles I., Turkish—or Barbary—pirates swept the English Channel, not only capturing vessels, but landing on the coasts, carrying off men, women and children. Under the Commonwealth, “complaints of piracy, in the strict sense, are very few, and there is not a single reference to the presence of a Turk in the narrow seas.”

A. T. MAHAN.

*Histoire du Cardinal de Richelieu.* Par GABRIEL HANOTAUX. Tome II., Première Partie. Le Chemin du Pouvoir; Le premier Ministère (1614-1617). (Paris: Firmin-Didot et Cie. 1896. Pp. 199.)

M. HANOTAUX belongs to the distinguished Frenchmen who have won laurels both in politics and literature. As secretary for foreign affairs he has displayed a sagacity which shows that he has not studied in vain the career of a great diplomat like Cardinal Richelieu. To literature M. Hanotau has made but one contribution, his History of Richelieu, the second volume of which has just appeared, and this has already secured for him a seat in the French Academy. Possibly his success as a diplomat has somewhat assisted in his prompt reception as an academician, for the Immortals are not averse to receiving among their number those who occupy prominent political positions. Yet the merits of the work well entitled M. Hanotau to be admitted into the body which is supposed to contain the most eminent of French writers.

The size of the present work may possibly discourage those who wish to absorb their historical knowledge in the most condensed form. M. Hanotau has already completed one portly tome, which covered Richelieu's early life, together with a masterly review of the political and social condition of France at the beginning of his career. The present publication contains apparently only half of the second volume, and it extends to the close of Richelieu's brief and somewhat inglorious ministry under Mary de' Medici. If the work is continued with the same ample proportions, several volumes will be required for the seventeen eventful years during which Richelieu controlled the destinies of the French people. Yet the career of the great cardinal was so influential in the development of the French government, it was so filled with dramatic interest, so connected with great crises in European history, that it deserves to be examined with a degree of care which only historical students would bestow on less important periods.

Of the manner in which M. Hanotau has done his work there is little to criticise. When his labors are completed the history of a great man will have been fitly told. This is high praise and it is just praise.

The present volume begins with the States-General of 1614, the last session of that body until 1789. Richelieu, the bishop of Luçon, was naturally selected as one of the deputies of the clergy, and had the opportunity, for which he greatly longed, to show himself on the field of politics. M. Hanotau has a taste for pictorial delineation; it is an art

in which he excels. He describes the long procession, brilliant in the varied costumes by which rank and office were then distinguished, in which the States marched to Notre Dame and there listened to the opening address in which they were bidden by Cardinal Sourdis, as a maxim for their future labors, to fear God and honor the king. If there was much that is curious and interesting in the proceedings of the States-General of 1614, there was little of permanent importance; the most important service they rendered the country was the opportunity they furnished the young bishop of Luçon to bring himself to the attention of the court.

Mary de' Medici was then the ruler of France; her son was no longer a minor, having passed the age of thirteen, but he was an ill-educated, slow-minded and backward boy, and she exercised as complete authority as when she was regent of the kingdom. To the source of power the young aspirant at once turned his attention. In later years Mary de' Medici hated Richelieu with an intensity that few could equal, and certainly she had no cause to love him, but at the beginning of his career his hopes of political prominence seemed to rest in the favor of the queen. Even if the future cardinal did nurse visions of personal power, he knew that he must first find his way to office through the good will of those who controlled the appointments to office.

Richelieu took no very prominent part in the debates of the clergy; his practical mind must have realized how void of effect their deliberations would be. But he became known by his discreet conduct in the questions which occasionally disturbed the tranquility of the States. In January, 1615, the session was about to close and the three orders were ready to present to the king the results of their labors, with the prayer that he would receive them with favor. To represent one of the orders on this great and solemn occasion was an honor dear to the ambitious. The friends of the queen-mother suggested that it would be agreeable to her if the bishop of Luçon were chosen as spokesman for the church, and such an intimation was received with submission by a loyal clergy.

The address of the bishop of Luçon was labored and creditable, but it gave little intimation of any extraordinary political ability in the orator. He expressed, indeed, an earnest desire that the clergy should take an active part in the councils of the king, and the wisdom of such a policy he demonstrated by many instances from the past. Such an utterance was, however, to be expected from any one who acted as spokesman for the order. As for Richelieu's real desires, if the bishop of Luçon could be raised to power, he cared little whether the church had any other representatives in the royal councils.

The session of the States-General came to an end to the great satisfaction of the court; their cahiers were received by the king to be answered in due time, and were allowed to be forgotten; but the bishop of Luçon preferred watching the opportunities for political promotion to returning to an obscure and remote diocese, there to minister to the wants of his flock. He did not have to wait long. Concini had married

a waiting woman whom Mary de' Medici brought with her from Florence, and both the husband and the wife were firmly intrenched in the favor of the queen. He was given great establishments, he was made a marshal of France, and as Maréchal d' Ancre the Italian adventurer, under an Italian queen, became the most powerful man in the kingdom. Richelieu did not hesitate to enroll himself among the followers of the prosperous adventurer. When his own power was established he was the haughtiest of men, but he did not scruple to prostrate himself before one whose weak and greedy character he must soon have discovered. The future cardinal had the qualities by which men insinuate themselves into place, and he had also the qualities which fit men to hold place. Those who would shine in public station, but cannot bring themselves to take the steps by which often it must be secured, may be estimable citizens, but they do not help to shape the destinies of a nation.

The ministers of Henry IV. were still in office, but they were not viewed with favor by Concini, and in 1616 they were dismissed. Their places were filled by men little known in political life; two were lawyers, the third was a financier, and the fourth was the bishop of Luçon. He was only thirty-one when he became secretary of state, and an influential member of the government. No one suspected the extraordinary fortune that lay before him, nor the manner in which he would exercise his power. In the States-General he had manifested zeal for his order, and since then he had actively espoused the interests of Concini and the queen-mother. "We could desire nothing better than the bishop of Luçon," wrote the papal nuncio, a sentiment that would not have been echoed by the pope twenty years later. The Spanish ambassador was equally complacent and equally deceived. "In all France," he wrote, "I do not believe there are two men as zealous as he for the service of God and of the Spanish crown, and for the general good." By the enemies of Concini the new secretary was included in a common category of abuse. "This stranger," said the manifesto of the princes, "has dismissed men of merit, and put in their places his own creatures, unfit persons, inexperienced in matters of state and born for servitude."

The new minister had little time to show whether his character was correctly judged by friends or foes. The attention of the court was occupied by the intrigues for Concini's overthrow, and the insurrections of unruly nobles, jealous of his power and desirous of making fresh inroads upon the treasury. On such malcontents in later years Richelieu was to lay a heavy hand, but his time had not yet come.

In the instructions he gave the representatives of France in foreign lands we can, however, find suggestions of the policy which he was to follow in the future. He wrote Schomberg to cultivate the good will of the minor German states, and declared that the Protestant princes should seek the friendship of France; in words that would have surprised his friend, the Spanish ambassador, he said no one need fear that as a result of the Spanish marriages France would forget her own interests in her zeal for Spain. "In matters of state," he added, "no one is so blind as to think a Spanish Catholic better than a French Huguenot."



In November, 1616, Richelieu was made secretary of state, and in the following May he was dismissed from office. When the Maréchal d'Ancre was murdered, the ministers he had chosen were involved in his overthrow. Richelieu fared better than some of his associates; Barbin was sent to the Bastille, but Richelieu's ecclesiastical character secured for him respectful treatment. He even hoped for continuance in office, and showed a willingness to treat Luines, the new favorite, with the same subservience that he had shown Concini. He had no opportunity to do so; the seals of office were taken from him and he retired from court to follow, very reluctantly we may be certain, the declining fortunes of Mary de' Medici.

Here M. Hanotaux for the present leaves his hero. We hope that political success will not too much interfere with the completion of a great historical work. M. Hanotaux has exhausted the sources of information, not only as to Richelieu's own career, but as to the period in which he lived. He possesses the qualities of an historical investigator, unwearied industry, skill in narrative and ability to enter into the feelings and politics of another age. In the science of history French writers during the last twenty-five years have proved themselves the equals of those of any other country. Taine, Broglie, Sorel and their compeers have shown that accuracy of scholarship can be combined with the artistic skill which makes the history of the past alike interesting and instructive; and M. Hanotaux deserves an equal meed of praise.

JAMES BRECK PERKINS.

*The Physiocrats.* Six Lectures on the French Économistes of the Eighteenth Century. By HENRY HIGGS. (New York: The Macmillan Co. 1897. Pp. x, 158.)

THE publication of Professor Oncken's edition of Quesnay's complete works in 1888 has been followed by a shoal of monographs from Professor Oncken's pupils and others which have cast a good deal of fresh light on the personal and literary relations of the Physiocrat group. But this new "literature" is scattered, and some of it not readily accessible; and Mr. Higgs has done a real service to students of the history of economic thought in bringing together in a brief and compact form the chief biographical and bibliographical conclusions which emerge from all this recent investigation. "Biographical and bibliographical," I have said; for Mr. Higgs informs us in his preface that he has intentionally "restricted critical and doctrinal comment within the narrowest limits." Mr. Higgs is one of those who believe, for their own happiness, that "a clear and cogent theory of value, the kernel of economic science," has actually been "established," and that "in the present generation" (p. 125); so that he would seem to enjoy advantages as a critic of Physiocracy denied to some of his predecessors. But the pages actually devoted here to criticism (especially p. 124) incline one to believe that Mr. Higgs's strength lies rather in historical investigation (where he has already abundantly exhibited it in his papers on Cantillon) than in



abstract analysis. The general conclusions are indeed in some cases surprisingly like those of the "little text-books" of which Mr. Higgs speaks with deserved scorn, *e. g.*, that the *Wealth of Nations* "sapped the scientific basis" (p. 58) whereon Physiocracy reposed.

The book is divided into six chapters: Rise of the School; The School and its Doctrines (2); Activities of the School; Opponents of the School; and Influence of the School. Each of these chapters is a bundle of brief biographies, with all the proper bibliographical information concerning the writings of the several writers, and a list of the contents of the more important of them. As may be supposed, therefore, the enterprising reader who should attempt to read through the book at one or two sittings will not escape altogether from the *ennui* which has dogged the "Economists" from the first; but to those who, knowing something of the subject already, will use the book as a dictionary it will be found exceedingly convenient. A few points of detail may perhaps be noticed. To say that Turgot "shared many of their ideas" (p. 4) is not a felicitous way of expressing the fact that he was in fundamental agreement with them. The "economic woes of the ancien régime" do not lose in the telling (pp. 5-11): Mr. Higgs is possibly a little too ready to give entire credence to Physiocratic lamentations; and it is making too much even of Quesnay to convert him into "competent judges." The mention of "entrepreneur" by Quesnay in 1757 is hardly a "noteworthy early use of an economic term;" it was in common use long before; *e. g.*, it was applied to Riquet by Vauban in 1691 (Clément, *Colbert*, II. 125). The verbs "to maximise" (p. 52) and "to opine" (as Mr. Higgs uses it, p. 43) can scarcely be recommended for imitation. As to the maxim *Laissez faire*, attention may be called to Colbert's language in 1669: "Il faut *laisser faire* les hommes qui s'appliquent sans peine à ce qui convient le mieux; c'est ce qui apporte le plus d'avantage" (cited, after Wolowski, by Levasseur, *Classes Ouvrières*, II. 193). But precisely similar language might be cited from writers, both French and English, whom one would have to call mercantilists. They did not indeed draw such sweeping conclusions from the maxim as writers of a later age; but the use of such language harmonizes with the fact to which commentators on the Physiocrats and on Adam Smith seldom call attention, that the way of the later "free trader" was not altogether unprepared for him. Finally it may be urged that "a statement of Locke that all taxes fall ultimately upon land" is a somewhat slighting way of referring to Locke's carefully drawn-out argument, which clearly anticipated (if it did not suggest) the assumptions and deductive reasoning by which the Physiocrats arrived at the same conclusion.

W. J. ASHLEY.

*The Autobiographies of Edward Gibbon.* Printed verbatim from hitherto unpublished MSS., with an introduction by the Earl of Sheffield. Edited by JOHN MURRAY. (London: John Murray. 1897. Pp. xiv, 435.)

*Antobiographies and Letters of Edward Gibbon* 727

*Private Letters of Edward Gibbon* (1753-1794). With an introduction by the Earl of Sheffield. Edited by ROWLAND E. PROTHERO. (London: John Murray. 1897. Two vols. Pp. xii, 400, 430.)

THE first Lord Sheffield, in the preface to his edition of Gibbon's *Miscellaneous Works* in 1795, briefly described the six sketches of his life which Gibbon left, and announced that "from all of them the following Memoirs have been carefully selected and put together." So skillfully was this done that the resulting narrative, notwithstanding this avowal, came to be regarded as Gibbon's work as it stands, so that when, two years ago, the six manuscripts were thrown open to the public view and the composite character of the received text of the autobiography was revealed, that revelation was hailed as an important literary discovery. This popular idea even finds a place in the preface of the present Lord Sheffield, who says that the autobiography "is now proved to be in no sense the simple work of that illustrious pen, but to have been dexterously pieced together out of seven fragmentary sketches and adapted into a single and coherent narrative." As the first Lord Sheffield's preface is not reprinted, this passage and two or three others of like character will perpetuate a misconception which is unjust to the first Lord Sheffield.

Mr. Murray has published the six texts under the titles of A, B, C, D, E and F in the following order: F, B, C, D, E, A and D, but without explaining the significance of the names or of the arrangement. The alphabetical succession denotes the supposed order of composition, and the order in which the texts are printed indicates in general the order in which the manuscripts were used as the basis of the received text. As neither Mr. Murray nor Mr. Frederic Harrison has shown precisely how the compilation was made it will not be out of place to do so here.

The received text in the Smith-Milman edition of the *Decline and Fall*, as published by Harper and Brothers, occupies pp. 44-205 of Vol. I., and will be cited as R. T., *i. e.*, "Received Text." R. T. opens, p. 44, with a paragraph from A, p. 354; pp. 45-46 are made up from memoranda on pp. 417-419 combined with A, p. 355; p. 47 is from B, pp. 104-105. Then, from p. 48 to p. 94 F is incorporated, with occasional omissions, from its beginning, p. 1, to the end, p. 95. The only interpolations in this long section are slight ones on pp. 60 and 70 from B, pp. 105 and 116. At the end of F, which is mainly a rewritten and expanded version of B, the compiler resorted to B, and R. T., pp. 95 to 147, is derived from B, pp. 130-210 (end of B) with the insertion of about six pages from C in five different places. R. T., pp. 147-167, is from C, pp. 265-292 (the end of C), with the omission of two pages, 289-291. R. T., p. 168 to the end, p. 205, is from E, pp. 306-349 (the end of E), with Gibbon's foot-notes largely incorporated in the text. The received text, then, is based on F, B, C and E, used in that order, each as far as it goes. There is on pp. 167-168 of R. T. a pas-

sage of 21 lines, which is intimately connected with the context, but which is not in E nor any of the other texts. One is forced to the conclusion that a page of MS. of E has either been lost or omitted in printing. The passage is an important one and its omission from this complete edition is much to be regretted.

It will be seen from this analysis of the composition of the received text that the amount of new matter to be found in this volume is not very great, if we except the long genealogical introduction to A; and that most of the omissions were simply variants of what was included. Yet in that sifting process many a characteristic touch disappeared. By the restoration of these the outline of the portrait is softened and there is a distinct gain of naturalness and humanity.

The same is true in much greater degree of the edition of the letters. Lord Sheffield certainly culled the most interesting parts of the correspondence for publication in 1795. Much that he omitted was truly described by Gibbon as "a vexatious repetition of losses, of disappointments, of sales, etc." But with this knowledge of Gibbon's pecuniary trials we have also recovered a good deal that is of interest about Gibbon's first residence in Switzerland, his travels, his parliamentary career, and his later life at Lausanne in the opening years of the French Revolution. There is less about his studies than one would expect. The new letters reveal one secret, however, that will strike the world with surprise, and that is that Gibbon authorized his proposed French translator to "Bowdlerize" the famous chapters on the rise of Christianity. He writes to M. Suard, November 8, 1776: "Je ne craindrois pas de vous confier les droits les plus étendues pour changer et même pour supprimer tout ce qui vous paraîtroit le plus propre à blesser la délicatesse de votre église et de votre police. J'irais moi-même au devant de leurs scrupules et . . . je vous aiderais à enlever toutes les pierres d'achoppement," I. 293. Another translator, however, had already undertaken the work, and apparently these chapters were published in their integrity, but the Rev. Thomas Bowdler came nearer than he imagined to having the author's example to guide him in the preparation of his *Family Gibbon*.

Gibbon's service in Parliament covered the period of the American Revolution, and during the latter part of the time he was a member of the Board of Trade. The complete correspondence of these years sets his political career in a much better light than did the selections published by Lord Sheffield. We find that Gibbon made a serious attempt to inform himself on the American question, and that he really appreciated the importance of the crisis. Mr. Cotter Morison, relying on the fragmentary letters, has depicted Gibbon's parliamentary career much too unfavorably.

The editing of the volume of autobiographies leaves much to be desired. The absence of any adequate critical introduction has already been noticed, as well as the failure to remark upon the loss of nearly a page. Mr. Murray incloses omitted passages in brackets, but, obviously, this is impracticable where there are parallel narratives. He should have

enclosed in full-faced brackets all passages that Lord Sheffield inserted and in thin-faced brackets the parallel passages in the other narratives, and then provided marginal cross-references. Mr. Murray's method is less precise and he has failed to carry it out correctly; *e. g.*, compare p. 355 with R. T., p. 45. Again, a passage in F, p. 37, is not bracketed, while the earlier version, B. 156, is in brackets; but neither of them is in R. T., p. 63.

Mr. Prothero's management of the text is to be commended, and both editors have added useful notes in explanation of the literary references which would puzzle the modern reader.

EDWARD GAYLORD BOURNE.

*Governments and Parties in Continental Europe.* By A. LAWRENCE LOWELL. (Boston and New York: Houghton, Mifflin and Co. 1896. Two vols., pp. viii, 376; viii, 455.)

THIS book contains an account of the origin of the existing constitutions of the five states of France, Italy, Germany, Austria-Hungary and Switzerland; a description of the present government in each state, with a pretty full account of the local governments as well as the general governments; a brief history of the political parties in each state and a description of their present organization. Even as a mere summary of useful information conveniently arranged the work has a high degree of merit. The real object of the author, however, is not a compilation of useful information; it is rather an original study of the actual politics of the day. The history and description are subordinate to the illustration of present political life. The author has in view both English and American readers. There is a frequent reference to English and American politics and a constant comparison of Anglo-Saxon and Continental institutions.

The author appears at his best in seizing upon and setting forth the characteristic features of the different states. In France there has grown up a system of centralized administration which holds together in spite of revolution. In a negative way the administrative system is a cause of revolution. Once this system is in the hands of a party in the state, the opposing party can again secure a share in the government only by recapturing the administrative machinery, that is, by a revolution. In Italy the Liberators, who at the time of the revolution of 1861 were strongly republican in their political convictions, became faithfully devoted to the support of the monarchy; while in France believers in monarchy were induced to support the Republic. Those, however, in France who remain open enemies of the Republic take an active part in politics; they hold seats in Parliament, and appear so formidable as to compel men of widely divergent political opinions to act together. In Italy, on the other hand, the papal party hold aloof from national politics, do not vote or hold office. The liberals therefore have a free hand in the national legislature, and the result is that, not being confronted by their enemies, they break up into small groups, or into formidable factions.

Germany is a state instinct with the spirit of monarchy. Monarchists in France support a republic ; republicans in Italy support a monarchy. But in Germany both the people and the government are believers in monarchy. Even the socialists do not attack the monarchy. The unique creation of recent German politics is the office of chancellor. The king of Prussia and the emperor of Germany are one and the same individual, but the legislature of Prussia and the legislature of the empire are entirely distinct entities. There are likewise diverse administrative systems, and such are the relations of the government of Prussia to the empire that it is quite essential that there should be at the head of both one guiding hand. So long as the old emperor lived, he and the chancellor together furnished the one guiding hand, and the hand was the hand of Bismarck. The young emperor introduced duality and confusion into this office, which threatened serious constitutional changes. The office of chancellor, however, still remains, and the emperor is compelled to find an administrative chief who can work in harmony with himself and two distinct legislatures.

In Austria Mr. Lowell finds "a museum of political curiosities,"—a dual state with a number of theoretically impossible, or at least improbable, political institutions. Yet, thanks to a common hatred of the Turks on the one side and the special fear of Russia on the other, these people work their dual institutions with a good degree of success.

The author devotes little space to mere glittering generalities. The characteristic features are worked out in detail. A good deal of attention is given to local government in each state, to the judicial systems, and to political parties in their relations to the voters as well as in their relations to the legislatures. The five Continental states described have each of them strongly marked and apparently permanent characteristics. When one state has attempted to copy from another there is either failure or material modification. In each state the successful institutions are those which have grown out of local conditions. Distinct as the states are, they are all strongly contrasted with the Anglo-Saxon world. Centuries of training under the development and administration of the common law have left marks upon the political institutions of the English-speaking race. Mr. Lowell has elaborated this distinction in his treatment of France, but the same characteristic points of difference appear throughout the work.

In the Anglo-Saxon world the courts of law have a position of power and influence which is nowhere else accorded to them. This reaches its highest illustration in the United States, where a court is made the final interpreter of our constitutions, state and national. In America the ordinary court protects the citizen both from the legislature and from the executive. In England the ordinary court protects the citizen from unlawful acts of the executive. In Continental Europe the ordinary court protects the citizen neither from the legislature nor from the executive. True, in Switzerland a citizen may, under certain conditions, sue an executive officer. But apart from this, if a citizen on the Continent is

injured by unlawful acts of a public officer he has no redress whatever in the ordinary courts. There is a sharp line of distinction between private and public law. The ordinary courts attend to grievances of private citizens; they have nothing to do with public officers. There are executive councils or administrative courts which attend to complaints against public officers. This distinction between public and private law holds in Switzerland as elsewhere on the Continent. Mr. Lowell refers to Montesquieu's dictum as to the importance of separating legislative, executive and judicial powers. The doctrine was accepted both in France and in America, but in the two countries the words had a wholly different meaning. In France they mean "that the administration ought to be free to act for the public good without let or hindrance from the courts of law." With the growth of democracy on the Continent there seems to be little tendency to break down this distinction between private and public law, and the permanence of the distinction naturally makes a marked difference in the distribution of governmental powers.

If the executive is supreme in the interpretation of its own acts it is virtually supreme in the making of the laws which govern the conduct of executive officers. Large fields of legislation which in England or America are religiously kept in the hands of the legislature are on the Continent left to the executive. Law-making is greatly simplified. The statutes are brief declarations of the general intentions of the legislature, while the details are expected to be filled out and the defects removed by administrative councils and the interpretations of administrative courts. Often the legislature simply directs the executive to make and execute a body of rules pertaining to a given subject. Even the voting of taxes is sometimes left to the executive. To Anglo-Saxon prejudice this would mean tyranny and oppression. But to dwellers in France it means nothing of the sort. The executive as such is feared no more than the legislature or the courts. It is simply a different method of governmental action. It may be as popular, as democratic, as any other method.

Mr. Lowell manifests the true prophetic spirit of the contemporary historian, and forecasts for us the probable future development of the various states discussed. In the case of France and Italy there is an apparent tendency to prophecy in favor of the development of the English cabinet system. The facts and observations cited may, however, easily be so interpreted as to lead to a different conclusion. The English cabinet system requires an artificial division into two political parties, while everywhere on the Continent the prevailing tendency seems to be in the direction of permanent political groups guarding, or representing, special interests. The fusion of so large a share of what Englishmen and Americans would call judicial and legislative business into the executive will render permanently inapplicable many of the features of the English system. Notwithstanding the English cabinet does in fact attend to both legislative and executive business, the two kinds of business are never-



theless kept as distinct as they are in America. The cabinet in the business of directing legislation is quite distinct from the cabinet engaged in the business of administration. Parliament makes laws for the government alike of all public officers and of all private citizens. A cabinet officer may be arraigned before an ordinary court and punished for the violation of a law which, as a cabinet officer, he assisted in formulating. In France or Italy the case is different. Law-making is not the extensive and serious business that it is in England. Cabinet officers on the Continent in their capacity as administrative officers attend to a large part of the business which is attended to by Parliament. In England the point of chief political interest is in legislation. On the Continent a much larger share of political interest centers in administration. For these and other reasons there is likely to be a permanent difference in the alignment of political parties and the development of the forms of administrative agencies.

Our author thinks it will be a long time before the representatives of the people obtain direction of public affairs in Germany. Yet in the book as a whole there is much encouragement for the democrat. In the dual monarchy the state of Hungary, through a sort of democratic training, manages to exert seventy per cent. of the political influence of the empire and to pay only thirty per cent. of the taxes. Democracy is not limited to one form or two forms of government. Sir Henry Maine, in his defence of monarchy, spoke of democracy as simply one form of government. But the Anglo-Saxons have created two distinct forms of democratic government. Surely the Swiss have a form of democracy that is neither English nor American in its essential characteristics. The people of Italy have concluded to treat monarchy as a mere form of government—one of the many forms which democrats may employ in getting their will executed.

JESSE MACY.

*The Colonial Tavern: a Glimpse of New England Town Life in the Seventeenth and Eighteenth Centuries.* By EDWARD FIELD. (Providence: Preston and Rounds. 1897. Pp. viii, 296.)

THE tavern was certainly an institution in the New England colonies. Modeled in general after the English pattern, it easily accommodated itself to the necessities of our pioneer settlements and became a conspicuous and indispensable feature in their development. Hitherto the subject has received incidental attention in town histories and in the proceedings of local societies, but with the growth of historical inquiry and research there has come to be a demand for a comprehensive work treating of the tavern as it was in relation to society and politics, to trade and travel. Such a book Mr. Field has now given us. His previous publications relating to certain points in Rhode Island history no doubt brought to light the possibilities of a treatise like this, upon which he has evidently bestowed considerable labor. He divides the subject into eight



chapters, showing The Tavern and its Keeper, The Sign and Name, The Tavern and Training Day, Tavern Cheer and Charge, Tales and Travelers, The Tavern in the Revolution, and The Tavern and the Stage Coach.

There are no illustrations except the small pen-and-ink designs which furnish a pleasing initial cut for each chapter. Such a book might have had pictures of some of the noted hostelries which it describes. Several of them are still standing and sketches of others have fortunately been preserved. They would have been welcome here.

Massachusetts seems to furnish the largest share of the material on this subject as on so many others. Such town histories as those of Cambridge, Dedham, Medford, Lynn, Newbury, Medfield and Lancaster have been consulted, but those of Milton, Lexington, Groton and other well-written towns are not quoted, though they would have yielded interesting additional facts, as would many an old town in New Hampshire and Connecticut. But the author has done a good service by introducing us to so many of the famous inns and showing the prominent place they occupied in the life of the fathers.

Next to the meeting-house—in more senses than one—came the tavern. It was not only a dispenser of comfort and the centre of news, but often the place in which the town meeting was held, and the court of law, and the ecclesiastical council and the military elections. It fulfilled, indeed, many of the functions of the modern club, and exchange, and lodge, and post-office, and saloon, and newspaper. The tavern was open to all comers except apprentices, negroes and Indians. In most cases the bar was the chief attraction, as the liquor habit was universal. The legal restrictions, however, were very severe, and the Puritan sense of order and propriety was seldom violated. The landlord was a personage who usually enjoyed the public confidence and was often prominent in town affairs, serving as constable, assessor, school-master, store-keeper, surveyor, tithing-man, post-master, selectman, or as representative in the General Court, captain of the train-band, or chorister and even deacon at church. Such offices do not seem to have conflicted with the commonplace duties of an inn-keeper, probably because the incumbent was known to be a good deal of a man and not a mere bar-tender. Dunton, who travelled here in 1686, speaks of his landlord at Lynn as “a fine old English gentleman,” who had been “one of Oliver’s soldiers.” Doubtless there were many tapsters who would answer to John Adams’s description of his Ipswich host who was “always calm and good-natured and lazy.” A Salem widow was authorized in 1645 to keep a tavern if “she provides a fitt man that is godly to manage the business.” Here perhaps we may find a warrant for the “Norwegian plan.”

No event brought so many people together as training day. Eight times a year all able-bodied men were required to attend. Training and treating were then in order. Old account-books show the charges for “beare and wyne,” “syder,” “rome,” “vittals and logen.”

The Revolutionary period brought the tavern into great prominence

as the rendezvous of the Sons of Liberty, the Committees of Safety and of Correspondence and as a depository for arms and the headquarters for recruiting officers.

The stage-coach gave the crowning glory to the tavern; and the driver became, in his turn, as important a character as the landlord. There can be no more picturesque illustration of country life than the arrival of the mail announced by the distant horn and attended by a general turn-out of the village folk to see the stage and get the news. But alas! that glory was short-lived, and the locomotive, which gave us the "depot," sounded the death-knell of the tavern.

The author would have aided students had he given an occasional foot-note stating by whom certain letters and diaries were written. The margin is wider than most readers would care for. The index is good, but not quite complete. Some of the tales in Chapter VI., though interesting, might have been abbreviated.

EDWARD G. PORTER.

*The Statutes at Large of Pennsylvania from 1682 to 1801.* Compiled under the Authority of the Act of May 19, 1887, by James T. Mitchell and Henry Flanders, Commissioners. Vol. II., 1700 to 1712. (State Printer of Pennsylvania. 1896. Pp. 676.)

AFTER ten years of labor the first volume of what promises to be by far the most complete of all the state Statutes at Large has been issued and will be a welcome addition to the collections hitherto made by Virginia, South Carolina and Massachusetts. An earlier volume, as indicated by the title-page of the present one, is yet to come, which will include, so the prefatory note announces, all statute laws from the foundation of the colony to October, 1700, "with the charter, the action of the crown upon those laws, the unpublished commissions and secret instructions to the several deputy governors, which explain many of the difficulties they labored under in assenting to the enactments of the Assembly; and the various essential documents on which our colonial legislation was fundamentally based," the publication of which "is deferred with the view of obtaining some additional matter and for the purpose of inserting a general survey of the work, which latter can only be prepared after all the subsequent volumes are in type."

Too much praise cannot be given to the execution of this work and especially to the portion falling to the share of Mr. Charles R. Hildeburn. To each law he has affixed its history, showing when it was passed, when repealed, and what law took its place, with much other material of the greatest value. A single example will illustrate the thoroughness with which this work has been performed:

"Passed November 27, 1700. This act is said by Weiss and Brockden, Galloway, Dallas and Smith to be supplied by an act of 10 Queen Anne, of June 12, 1712, which Dallas more specifically indicates (in a footnote) as his Chapter 186. The latter, our Chapter 185, applies only

to Philadelphia, and does not touch upon the subject of the third section of this act.

"It does not appear to have been submitted to the consideration of the Crown in 1705 (see Appendix I., Section II.), and in the editions of 1714, 1728 and 1742, it is marked 'repealed.' The minutes of the Assembly are missing from October 27, 1701, to May 24, 1704, and it is probable that this act was repealed by a resolution of the Assembly passed within that period, as was done on October 17, 1701, in the cases of Chapters 76 and 77."

Nor does this history of each act include all the relating material, for over a hundred pages of appendices are added, made up of extracts from the Journal of the Board of Trade, Orders in Council, opinions of the royal attorney-general, minutes of the Provincial Council, letters of the royal governors, and other material of the greatest possible value for a thorough understanding of the colony laws.

A survey of the statutes reveals little which makes Pennsylvania distinctive from her sister colonies, if we except the act granting liberty of conscience to all Trinitarians, and another taxing the importation of negroes, originally enacted at the rate of forty shillings the poll, but quickly raised to twenty pounds, equivalent then to a prohibition, though even Quaker altruism was forced to throw a sop to the commercial classes by permitting the importation of negroes in bond, so as to leave to Philadelphia its share of the slave trade. Otherwise the laws are typical of the times rather than of the province; measures repressing duelling, swearing, Sabbath-breaking, health-drinking and most forms of amusements being noticeable, together with the economic cure-all of new ratios for coins, and the inevitable tender laws which always followed in its footsteps. It is interesting to note that a favorite form of tax was the poll-tax, which otherwise, except in New England, was always an unpopular form of collecting money, suggesting a possible relation between the greater democracy of those especial colonies and the tax now-a-days considered the reverse of democratic.<sup>1</sup>

PAUL LEICESTER FORD.

*History of Proprietary Government in Pennsylvania.* By WILLIAM ROBERT SHEPHERD, Ph.D. [Studies in History, Economics and Public Law, Columbia University, Vol. VI.] (New York. 1896. Pp. iv, 601.)

WE have here an elaborate study of the proprietary system which existed in Pennsylvania from the grant to William Penn, in March, 1680-81, to the overthrow of the royal control and colonial organization, in July, 1776. The designation "proprietary government" is to some extent misleading; strictly speaking, there never was in Pennsylvania any real government by a proprietor, unless we choose to except the two periods of two years each which Penn spent on the soil, 1682 to 1684

<sup>1</sup> Vol. III. (1712-1724) has also appeared.

and 1699 to 1701. His personal influence was such that he then practically ruled the little community, and was a governor in fact as well as in name. In the remaining ninety-one years Pennsylvania was chiefly controlled by its elective assembly, with such checks and interruptions as the crown inclined, and the deputies of the proprietors were able, to apply.

The great value of Dr. Shepherd's large book lies in its careful study of the Penn manuscripts in the collections of the Historical Society of Pennsylvania at Philadelphia. Some of these "relate to the settlement of Pennsylvania and to the founder of the province," but "the greater portion is composed of the correspondence of the descendants of William Penn with the deputy governors and with their agents in Pennsylvania from 1729 to 1775." These manuscripts, most of which were acquired by the society in 1870, through a purchase made in London, are arranged in eighty-seven large volumes, "and sufficient remain unbound to make one hundred volumes when the arrangement is complete." "Much has yet to be done," Dr. Shepherd states, "before the collection will be properly accessible to the historical student." It is in view of this absence of completed arrangement, and of the great bulk of the materials, that we must award so much credit to the courage, persistency and intelligence with which Mr. Shepherd has attacked and—fairly—mastered them. It is not probable that any other one person, living or dead, has ever read so many of these manuscripts, and it must remain doubtful when anyone else will address himself to so serious a task.

The contents of the manuscripts, to which we are thus afforded a fairly complete and satisfactory clew, are interesting and valuable, though we may not assign them so great importance as does Dr. Shepherd. The period after 1729, when the three surviving sons of William Penn, John, Thomas and Richard, became established in their inheritance as "the Young Proprietaries," down to the cataclysm of the Revolution, is the period in which the proprietary control of the colony was ebbing away, and the letters written by the Penns, mostly by Thomas, and by their Pennsylvania correspondents, are in no small measure controversial. They cannot be taken without reserve. They require to be read in comparison with other documentary evidence, and in the light of circumstances concerning which we are otherwise well informed. Perhaps it may be said that in his estimate of Thomas Penn's relations to the colony, and to persons and events in its history, Dr. Shepherd gives a somewhat undue weight to Thomas's own representations. It is more than likely that in native rectitude of statement he was not inferior to Benjamin Franklin, or Provost Smith, or Joseph Galloway, but where their written averments differ widely, as is so frequently the case, it is obviously imprudent to follow any one of them implicitly.

The book is by no means merely a summary of this correspondence between 1729 and 1775. It presents a view of the whole proprietary period, as its title states, and between 1681 and 1729 it uses the materials, manuscript and printed, which are available for such a study. It

thus becomes practically a history of Pennsylvania down to 1776, and the author is compelled to pass judgment upon many obscure and doubtful questions. Some of these judgments are judicious and helpful; others will be disputed. The account of the period before 1729 is marred by statements which an unfriendly critic would make the occasion for serious complaint, and as the book will be, as it ought to be, an authority for future consultation, it is necessary to suggest some of them, though it is impossible here to do more than introduce the subject.

In the sketch of the early settlement, the description of the location and plan of Philadelphia is misleading. It is explicitly stated (p. 20) that "the commissioner," (there were three) sent out in the autumn of 1681 to locate the city, "did nothing but explore the country till the arrival of Penn in October, 1682." Undoubtedly the site was chosen by Markham and the commissioners, in 1681, was then surveyed by Fairman, and was later plotted by Holme, so that by the summer of 1682, several months before Penn's arrival, its location was settled, and its plan known. There are passages in the description of the Swedish and Dutch occupation which are not clearly correct, but space cannot be taken here to discuss them. In the account of the Indians, the opening paragraph (p. 94) is very confused. It makes the statement that the hunting-ground of the Delawares—the Lenâpé—was "from the sources of the Delaware and Susquehanna rivers, southward to the Lehigh hills, and westward far beyond the Susquehanna." This assigns them a large part of the region of the Iroquois, their enemies and oppressors, in New York and northern Pennsylvania, and excludes them from the place in which they were most securely seated, along the Delaware valley south from the Lehigh hills—the Blue Mountains—to the sea. It is curious to note that in his discussion of the Indian question Dr. Shepherd seems to have made no use of Charles Thomson's valuable, if not invaluable, *Enquiry into the Causes of the Alienation of the Delaware and Shawanese Indians*. The allusion (p. 114) to the motives which caused the organization of the "Friendly Association," in 1756, is unfair, and supported by no testimony within my knowledge except that of persons who coveted the Indians' lands.

The nature of the subject necessarily involves a good deal of attention to the Friends or "Quakers." Penn's connection with them, and his lofty desire to make here the "holy experiment" of a community which should maintain the Christian rule of peace, creates a situation in which it is impossible to write Pennsylvania history without discussing the Friends, and their social and political variation from other classes of people. In this discussion Dr. Shepherd is in the main fair, though he sometimes follows the lead of their enemies, as in charging them (p. 533) with "unreasonable behavior in clinging to their seats" in the assembly; with being (p. 557) "fond of political power;" with being (p. 548) "too fond of power to give to the charter anything but the narrowest construction," and with having (p. 551) "stubbornly held fast to their political control." Discrediting some of Franklin's exaggerations

(e. g., his story of the proprietaries' wealth), in the partisan *Historical Review*, he yet follows him in other statements not less unsound. Confidence is given in several places to his quips and jokes, his egotistical personal narratives, and his averments and arguments made to serve a temporary controversial purpose. It may be noted at this point that the statement (p. 351) that "among the many tenets of the Quakers, the one which concerned the taking of an oath was probably the most prominent," is not doing justice to Dr. Shepherd's own acquaintance with the Friends; relatively, this "testimony" was a minor one, though in their troubles over the administration of the government their enemies made it play an important part.

On page 324 it is stated that the people of Delaware were (about the period of the separation from Pennsylvania, 1704) "for the most part of Dutch and Swedish parentage." This could be fairly said only of Newcastle county; Kent and Sussex, especially the latter, were and long remained strongly of English blood. On page 545 is given a list of the "German religious sects," whose members were emigrants to Pennsylvania before 1755, in which the Lutherans and German Reformed, who formed probably the majority, are not mentioned.

HOWARD M. JENKINS.

*The Literary History of the American Revolution, 1763-1783.* By MOSES COIT TYLER, Professor of American History in Cornell University. Vol. I., 1763-1776. (New York and London: G. P. Putnam's Sons. 1897. Pp. xxxi, 521).

ALTHOUGH the title does not announce it, the present work must really be considered not so much a distinct study, as a sequel to the *History of American Literature during the Colonial Time*, issued by the same author several years ago. It is true that the new book stands for itself and by itself, but a survey of the literature of the Revolution which passes over some of the leading writers with scarcely a reference, is either to be blamed as defective, or such omissions are to be explained by reference to an earlier work. In the present volume, the writings of Thomas Hutchinson find scarcely a mention, except for his *Strictures* on the Declaration of Independence, and three quotations from private letters serve to dismiss Franklin from consideration, though his famous *Examination* was the first political pamphlet which really broke through the colony boundaries. The explanation is, of course, that these and other writers had already been treated in the earlier work; but we think a note to this effect in the preface would, on the whole, have been worth the making.

Another point on which there is room for question is the neglect of a very essential class of writers. In the sense of an American literature produced on our own soil, no objection can be made to the omission of this class, but the title suggests no such distinction, and a *Literary History of the American Revolution* can scarcely be considered complete



without reference to the writings of John Huske, William Bollan, William Knox, and Thomas Pownall, all of whom, though they wrote and published in England, nevertheless were of either American birth or residence.

But since Professor Tyler has drawn these lines of demarcation, and deliberately elects not to consider the writers already treated by him in his previous work, or those whose labors were done in Great Britain, this criticism cannot be considered as material, since it is only fair to judge a book by the author's evident intention. From this standpoint it is far and away the best treatment of the literature of those years of turmoil yet written, so careful and accurate, so full and discriminating, that it must stand apart from all previous attempts. Professor Tyler has read, one can say absorbed, everything that is material in the controversial battles, no skit or broadside even being too ephemeral to be cast aside as worthless. From this mass of material he has culled the interesting, the distinctive or the typical, and has so arranged and framed his literary mosaic, that a vivid picture is presented, not merely of the literature of the times, but of the very minds of a people. Had he but extended his studies one point further, and added a survey of the newspapers, which fought half the battle at least, his work would stand preëminent, not merely as a history of the writing of the period, but of all the intellectual forces acting upon a fresh-minded, clear-headed people. He explains the omission by stating that the newspaper then occupied a "subordinate place" as compared with the pamphlet, but in this we must take issue with him. Otis, Adams, Franklin, Dickinson, and others of the same type, did the larger part of their work through the American press, and their choice of this vehicle for public appeal shows the influence of the fourth estate at that time.

Considering points more in detail, the author calls attention to two hitherto unnoticed works on trade: *An Essay on the Trade of the Northern Colonies*, and *Some Thoughts on the Method of Improving and Securing the Advantages which accrue to Great Britain from the Northern Colonies*, but he has no clue to the authorship of either. They were both merely newspaper articles, the first being printed in the *Pennsylvania Journal* and the last in the *New York Mercury*, though both were reprinted in London as pamphlets. The second was written by Archibald Kennedy and the probabilities are that the first was also. He was an early and somewhat prolific American writer on trade, of considerable ability, who has been singularly neglected, except by Appleton's *Cyclopedia of Biography*, which, with its customary accuracy, kills him several years before he died.

A question on which the author has been misled by George H. Moore's pamphlet on the *Declaration of the Causes for taking up Arms*, concerns the authorship of that piece. Dr. Moore proved to his own satisfaction that Jefferson, in his words, "lied" in claiming a material share in the authorship of this paper, but his pamphlet was written before Jefferson's drafts were discovered. They have since been printed,



with such corrections as Dickinson wrote upon them, and they show that the larger part of the famous paper was drafted by Jefferson.

We think, in his consideration of Francis Hopkinson, it may interest Professor Tyler to glance over that author's *Errata, or the Art of Printing incorrectly*, together with Stewart's reply entitled *The Ass in the Lyon's Skin, discovered by his Braying*. The latter was almost the first publication (1764) of the "little genius" and, though bad-tempered, is distinctly entertaining. A reconsideration of the reference on page 206 to a "certain great author" will probably result in the substitution of the name of Jonathan Edwards for that of Bishop Berkeley. Finally, the question of Hamilton's age is now so debatable a point, that it is no longer wise to consider his precocity as an established fact.

PAUL LEICESTER FORD.

*History of the Transition from Provincial to Commonwealth Government in Massachusetts.* By HARRY A. CUSHING, Ph.D., Tutor in History, Columbia University. [Studies in History, Economics, and Public Law, Columbia University, Vol. VII., Number 1.] (New York. 1896. Pp. vi, 281.)

MR. CUSHING has selected a field which has attracted the attention of many writers, but he alone has recorded in detail the results of an examination of this subject, made with scrupulous care, which covers the voluminous authorities under consideration. He has had at his command, not only the publications of the time, but also many manuscripts, and has placed before us in orderly arrangement an analysis of their contents, containing much that is new. It may be asserted that no person will be tempted to follow in his footsteps, and as a consequence this volume must stand as an authority upon the topic of which it treats, within the limits of the period investigated by the author. In respect to these limits, to questions of proportion, inclusion and omission, and to conclusions, no two scholars will wholly agree, and the reader of the book will perhaps be disposed to give preference to the opinions of the author rather than to those of the critic.

The analytical treatment of the subject by Mr. Cushing begins with the ante-Revolutionary conflict between the provincial legislature and the royal governors. The writer seeks for some hidden explanation of this and finds it in what he terms "elements of antagonism in the provincial system." Following the statement of what these elements were, is an analysis of the work of the Provincial Congress and its accessories, which is in turn followed by a full account of the abortive constitution of 1778 and an explanation of the cause of its failure. The work concludes with a description of the constitution of 1780.

The most valuable contributions to our historical knowledge are made by the chapters on the work of the Provincial Congress and on the constitution of 1778. The field here worked was fallow and the harvest was great. The student of the subject must hereafter turn to these chapters

for information. The account of the constitution of 1780 is perhaps equally good, but that constitution has already been the subject of much study and comment. As to the chapter devoted to the description of the conflict which led up to the Provincial Congress, readers will measure its relative value by the views which they themselves entertain upon this subject. No person will be tempted to deny the potent instrumentality of the townships in the education of the popular mind with regard to political questions, nor that after the occurrence of an actual collision, there was to be found in these organizations an ultimate government upon an unquestioned legal basis, even if the origin of the Provincial Congress could not be traced in an equally convincing way to an undoubted legal paternity. It may be said, however, that while the author distinctly recognizes the craving for legal methods of procedure which led the colonists, through their county conventions in 1774, to recommend that instructions be given to the delegates to the General Court which would enable them to organize a Provincial Congress, yet he does not seem to give full value to the attempt thus made to secure a semblance of legality for this organization. The fact that this result could not be secured through the towns, and that by means of the county conventions organizations were attained as closely conformable to law as was possible under the circumstances, has been pointed out by Abner C. Goodell, Jr., in a communication to the Colonial Society of Massachusetts, in December, 1893, and the high estimate set by our fathers upon the maintenance of some authority founded upon existing legal organizations is there conclusively shown.

Some difference of opinion will be allowed as to the proper time for beginning the examination of the pre-Revolutionary events which led up to and formed a part of the conflict, and our judgment of individual actions at a later period will be largely influenced by this determination. The early beginning and long continuance of the discussion of the various questions at issue between the royal governors and the legislature, such as the salary question, the proper place for holding the General Court, and numerous others of similar character, many of which are examined by Mr. Cushing, certainly deprive this contest of any element of "theatrical spontaneity," and a rehearsal of these events in greater detail might relieve those who coöperated with Samuel Adams from the charge of "demagogism."

The author himself seems to have been somewhat troubled by the amount of material which he had at hand bearing upon this point, and while recognizing the fact that "in a large measure the history of the colony and of the province was the preparation for the Revolution," he practically confines himself in his preliminary survey to the consideration of the decade before the Revolution. As a matter of fact the contest began under Sir William Phips, with the refusal of the assembly to fix his salary and the negativing by the governor of Elisha Cooke as councillor. It was continued with more or less vigor during every successive administration except, perhaps, those of Stoughton and Bellomont.

During this period Massachusetts was, to quote the language of Palfrey, "unquestionably and distinctly a province of the British Crown." With this opinion the author does not seem to agree. He apparently looks upon the provincial government of Massachusetts as a composite government containing elements of a royal province and of a corporate colony. So far as the government was concerned there seems to be no escape from the conclusion of Palfrey. It is true, however, that the people never forgot the privileges that had been enjoyed under the charter of Charles I. and the memory of these privileges unfitted them to a certain extent for the subordination apparently expected under a strict provincial government.

Mr. Cushing says that the council in Massachusetts until the election of Bowdoin was "an instrument of royalty." On the other hand it is known that complaint was made against Governor Belcher because he referred a certain matter to his Council, "a body," it was said, "not composed of appointees of the Crown but of members elected from time to time by the assembly." If one can reconcile the repeated instances in which the Council had sided with the House upon questions of principle with such subserviency as would justify the application of these words by the author, then we might feel that the appointment of the "mandamus councillors" by the Crown was not a material infringement of the charter, and that each side in the discussion which followed their appointment "stood on ground in its own view perfectly defensible." If, however, the conclusion should be reached that the Council had not always been the tool of the governors but had frequently upon important questions acted in an independent and manly way, then the attempt thus to overturn an important feature of the charter may lead us to ask what proceedings it had been thought necessary to institute when the annulment of the charter was desired in the days of Charles I. and again, how, in the time of Charles II., the attempt was renewed and through what agency it was finally accomplished. If the first charter could only be annulled through the courts and if in the days of George I. it was considered necessary to submit an amendment to the Province Charter to the assembly for acceptance, surely important changes in the government could not properly be made in the days of George III. through the agency of parliamentary statutes or royal instructions. It cannot fairly be said that so important an innovation of the charter, effected by means which were not in accordance with the precedent already established, was "perfectly defensible" from any point of view.

While it may be admitted that some of the so-called grievances of the colonists were merely technical in their nature, still the fact remains that untold suffering had been inflicted upon a large body of Massachusetts men through parliamentary legislation, of which it is not too much to say that it was atrocious. When the subscribers to the Land Bank entered upon their operations there was no statute either in the province or in Great Britain which made their proceedings illegal. The opinion of the Board of Trade that a somewhat similar organization in New Hamp-

shire was permissible, was on record. The attorney-general had given an opinion that there was no objection in law to a precisely similar organization. Nevertheless, Parliament suppressed the Land Bank by legislation which was retro-active in character and far-reaching in consequences. One of the directors in that bank was Samuel Adams, the father of the agitator, nor was it strange that the son should be found exercising every power at his command against the encroachments of the Crown. There were a thousand subscribers to the Land Bank, every man of whom had a personal grievance against Parliament; and all of whom had friends who sympathized with them. "The act to destroy the Land Bank scheme," said John Adams, "raised a greater ferment in this province than the Stamp Act did."

A discussion of the subject treated in this book, which does not make use of the materials furnished by the published House Journals from 1715 down to 1775, cannot be considered complete. Within the pages of the journals will be found many samples of special pleadings, smart rejoinders, and cheap attempts at repartee, which will satisfy those who hunt for them, while the steady adherence to certain general principles underlying the main arguments of the House will be grateful to those who see in this preliminary contest something more than an inherent antagonism in a form of government. Here can be found the work of Elisha Cooke, whose mantle fell upon the shoulders of Samuel Adams, and here can be traced the growth of the direct appeals of the representatives to the people for instructions, which made effectual the "extra-constitutional bodies" so fully described by the author. So far as this book is concerned there is no evidence that use has been made of these materials. Nevertheless, as was said at the beginning of this article, methods of treatment and supposed omissions are, in so careful a book, mainly matters of personal opinion. The author has earned the right to be judged by his valuable work as it stands and not by the ideals of others.

ANDREW MCFARLAND DAVIS.

*Taxation and Taxes in the United States under the Internal Revenue System, 1791-1895.* By FREDERICK C. HOWE, Ph.D. (New York: T. Y. Crowell and Co. 1896. Pp. vi, 293.)

In this volume on the history of the internal revenue system of the United States, Mr. Howe has touched a side of American history and finance that has been singularly neglected, and has directed attention to a series of questions that may at any moment be made the subject of practical politics. Whether we regard the internal revenue system on its historical, financial, or practical side it will be found instructive and important. To the student of taxation, our experiences with inland taxation during the Civil War constitute the most remarkable chapter in the history of modern taxation. No other country has ever had a similar experience in so short a space of time. To the student of our history and institutions, no more telling indication of the changes wrought in

our legislative and administrative system by the Civil War exists, than the sudden break that was then made in the traditional revenue policy of the national government. And if we go back to the earlier decades of our history, we find the question of internal taxation exercising quite as deep an influence on party politics and constitutional theories as the bank question or the tariff question. The tariff and the currency have long had their historians, but Dr. Howe's book represents the first attempt, at any rate in English (for we must not forget Von Hock's elaborate study) to deal in a scholarly and exhaustive fashion with the history of internal taxation.

The book divides itself into two parts although the author does not so distinguish them. The introduction and first three chapters, which make up the first part, give the external history of the internal revenue from the first attempts of the Federalists down through the Civil War. In this part of his book Dr. Howe has made it his especial task to develop the relations between internal taxation and politics in our parliamentary history; and rightly, for questions of taxation were not discussed in the light of financial policy by our first two political parties, but rather with reference to their bearing on political and constitutional development. "The position occupied by the custom and internal taxes is but the mirror of opinions prevailing as to the nature of the Union." This is the key-note of the author's treatment. Hamilton's measures for a federal excise—the motives that suggested them, the criticism and opposition they provoked, and, finally, their influence in bringing on the political revolution of 1801 and the downfall of the Federalists—are discussed with fullness of knowledge and judgment. No new material is brought to light here, no new theory of interpretation is advanced, but Dr. Howe has massed the material in such a way as to give more striking significance to the historical inferences it supports. In this respect his treatment is distinctly fresh and interesting.

From a fiscal point of view Hamilton's system was purely tentative. It never developed into an effective or productive resource. And yet it embodied the fundamental principles and outlined the methods that were followed on the revival of internal taxation in 1813 and again in 1862. The taxation of luxuries, chiefly in the forms of spirits and tobacco, this was Hamilton's principle and this is the basis on which our present system rests. (In this connection it would be interesting to know whether Hamilton followed English precedents to the same extent in the shaping of his internal taxes as he did in other parts of his financial system. But this point is not discussed.) With the Civil War the internal revenue system entered on a new and more serious phase of development than would have been thought possible at the beginning of the century. It quickly passed from the domain of theoretical politics to that of practical finance. It had become a fiscal necessity, and the enlarged construction of its powers, to which Congress was rapidly becoming habituated as the war advanced, finally resulted in the development of a system of internal taxes that is without a parallel. The catalogue of all known or tried ex-

pedients was exhausted. Arthur Young's ideal of taxation, that it should bear on an "infinite number of points," was realized; but with results that would have disturbed the great agriculturist's confidence in his maxim. For industry was harassed, commerce dislocated and speculation stimulated by the multiplicity and complexity of taxes. Nor was the internal revenue system productive of much revenue until the last year of the war. Our experience, as Dr. Howe points out, is conclusive that a great and intricate piece of revenue machinery cannot be improvised in the midst of emergency. As it was, the internal revenue system was of service less from any direct relief it afforded to the Treasury than from the support it gave to public credit, thus saving the loan policy of the government from a more disastrous failure.

So much for the first part of the book. The second part is a detailed study of the several taxes that made up the internal revenue system of the Civil War. Separate chapters are given to the direct taxes on land, income and corporations; to taxes on inheritances, sales and transactions; to the direct taxes on consumption and the general excise upon manufactures; to the administration of the system; and to the present situation with respect to revenue. A vast mass of material has been gathered together, carefully sifted and brought to the crucible of criticism. Much of this material was in the rough, but it has been handled with skill and independence. The book is pleasantly free from the compilatory quality so frequently met with in works based largely on public documents. Dr. Howe never casts his material in a mechanical mould and always adapts his treatment to the particular interest attaching to the study of a given tax. Indeed, this part of his work is a study of the different war taxes from the point of view of fiscal and economic expediency. The income tax is studied mainly with reference to its elasticity and productiveness, and its particular value as an emergency tax. The taxes on consumption are studied mainly with reference to the connection between variations of rate and yield, the effort being made to determine the maximum revenue point in the case of the more important revenue commodities. The general excise is exhaustively examined with reference to its economic effects on industry, prices and wages. It is condemned because of its economic harmfulness rather than because of fiscal defects.

If we find something to criticise in these chapters, it is rather a certain deficiency in the author's general knowledge of taxation and the literature of taxation, than any want of familiarity with his immediate subject. There he is always at home. But it would be possible to point out many cases, *e. g.*, his favorable judgment of the "direct" tax as an emergency tax (p. 84), his assumption of the non-transferability of an income tax (p. 94), or his claim to the establishment of a new canon of taxation (p. 145), in which a better acquaintance with the literature of taxation, even the American literature, would have led him to other conclusions or, at any rate, to an expression of some of his present conclusions with greater caution. The only criticism to be made of this part of the work as a whole is the slight attention paid to the legislative his-



tory of the internal revenue system. If Dr. Howe had followed the debates of Congress, he would have had no difficulty in understanding the ready acquiescence of the majority in 1861 in the proposition to establish an income tax.

A. C. MILLER.

*The Middle Period, 1817 1858.* By JOHN W. BURGESS, Ph.D., LL.D., Professor of Political Science and Constitutional Law in Columbia University. [The American History Series.] (New York: Charles Scribner's Sons. 1897. Pp. xvi, 544.)

So the United States, like Europe, has now its Middle Age! The phrase here applies to a period of uncertain destinies when the sentiments of strong nationality and strong particularism struggled together towards a doubtful victory. In the first chapter on "The Nationalization of the old Republican Party" the stage is cleared for the two combatants. National independence was finally won in the war of 1812. Pride in national feeling was universal. The separatism of colonial times and of the Resolutions of '98 was extinguished and all parties and sections evinced a tendency to magnify the offices of the central government, at once the symbol and the organ of nationality. On one side stood Calhoun advocating a national bank, a protective tariff upon manufactures and national appropriations for internal improvements. On another side were heard the acclamations that greeted Jackson's bold performances in Florida or the annexation of the same country by the diplomacy of John Quincy Adams. Then began the reaction towards particularism, devotion to local interests, "states' rights." It was inspired first by slavery in the long struggle over the admission of Missouri. It was entangled with dissensions due to economic interests, in the tariffs of 1824, 1827 and 1828, and it was promoted by those dissensions. The author shows how and why, after the Missouri Compromise, the slave-holding aristocracy began to take refuge in the citadel of "Strict Construction." It may have been King Cotton that, by the mouths of Thomas Cooper and George McDuffie, 1827-1832, first called the Democratic party back to the Jefferson of '98. But it was the slave power that appropriated the doctrine and, after the contest over the abolitionist right of petition, became master of the political force of particularism.

Here begins the historic, continuous duel to which these opening chapters have but furnished the preludes. It is the duel between reaction and progress, between disorganization and centralization, between slavery, upholding a political science of compromises, of sectional interests and of industrial crudeness and dependence, and true democracy seeking to frame a political science consistent with itself, strong in national feeling, intoxicated with "equality" and nurtured amid the leveling influences of the western prairies.

The last two hundred pages of this volume, although divided into ten chapters, are really but a monograph on the acquisition of Texas and the



transmontane territory and the political consequences thereof. Nothing is allowed to interfere with the view of the two great contending forces in the nation. Here, or elsewhere in the book, the reader will look in vain for any account of social changes, of religious movements, of industrial history, or of the wonderful outburst of inventions. This is a history of politics only, and the chapters, each of which is a topical study, follow one another like Euclidean demonstrations. The action is rapid, the narrative at once lucid and forcible, the philosophical comment positive and stimulating. Nowhere else is there, in brief form, so clear and admirable a summary of the influence of the Missouri controversy and of the results of the execution of the Fugitive Slave Law. Of the Dred Scott case, or cases, Professor Burgess presents an original account received by him from Mr. A. C. Crane, of St. Louis, who was a clerk in the office of Roswell M. Field, Scott's counsel. This account agrees in general, though not in minute detail, with the account in Nicolay and Hay's *Lincoln*. The last chapters, on "The Struggle for Kansas," are the most vigorous of all in the book and will provoke most discussion and disagreement.

There are phrases here hot from the anvil. John Brown, termed "the Loki of Kansas 'Free-State' history," is also called robber and murderer. He and his partisans are "cut-throats and highwaymen." His "deeds are not means to anything except the establishment of the reign of hell on earth." (It is unfortunate, by the way, that the master of such vigorous English as this should permit himself to write of the "mental niveau" of an audience or of a "tremendous bouleversement.") It is possible that history will finally award to John Brown neither the violent execration which is here allotted to him, nor the "maudlin adoration" which Professor Burgess justly condemns. The author terms John Brown "a dangerous criminal." Perhaps "dangerous fanatic" would be a safer phrase. John Brown seems to have been a prodigy of religious fanaticism, a Ziska born out of time, or as Professor Spring in his excellent work on Kansas suggests, "a Puritan astray." It is in this character of an enthusiast crazed by a dreadful wrong that the nation finally beheld and accepted him, even in his crimes, as forever marching on.

Towards the abolitionist agitation as a whole, Professor Burgess is very critical and very just, though one may wonder at his unusually lenient, almost exculpatory allusion to the atrocious murder of Lovejoy. Neither does he render full justice, in his account of the assault on Sumner, to the provocations that Sumner had endured from the studied and contemptuous insolence of Southern and Democratic senators. There is, however, in this book but little analysis of individual characters. The author conceives of politics as related to constitutional development and he preserves the tone and manner of a constitutional lawyer. Even Calhoun, who welded together slavery, free-trade and particularism, and who became the oracle of that political philosophy to which Professor Burgess devotes half his space, appears in these pages as little more than a label attached to various exercises in logic and argumentation. There is no

adequate explanation of his flight from the extreme of nationalism to the extreme of particularism, or of the glittering ambitions that filled his sight but mocked his touch. Thurlow Weed seems not to win even a mention, honorable or otherwise. The influence of Martin Van Buren and his associates in the national democracy is hardly accounted for, while Van Buren's master, Jackson, is blasted by a lightning-stroke like this: "He had the fortune to live at a time and in a country when and where high qualifications simply to discharge the duties of an office were beginning to be regarded by the majority of the people as disqualifications for holding the office."

Professor Burgess is so firm a supporter of the sentiment of nationality that he seems to find no occasion for reproach in the story of our westward territorial expansion. The cession of Florida introduces the doctrine that each state has a right to possess its natural boundaries. The territorial extension of the United States to the Rio Grande was, says Professor Burgess, "simply the fulfillment of the moral order of the world." This reasoning may seem less cogent to a Mexican than to a Yankee. The Mexican imbroglio is one of the few events in this period in which the author fails to hold a brief for the other side also. The charge that our government was deliberately mean and unfriendly to a weaker nation deserves a more leisurely and impartial consideration.

No reader of this book should fail to study the preface, which is replete with the strong individuality of the author. He has sought to secure impartiality by avoiding all recent histories of the events that he would describe and all "secondary material" of every description. He has, therefore, presumably woven this history almost exclusively from legislative and Congressional reports and other public documents. In this way, he remarks, "if the facts are twisted by prejudice, . . . they have suffered *only one twist*."

The result is a volume possessing a singular firmness and solidity of argument, strongly philosophical in character and abounding in trenchant criticism. The next and concluding volume in the series, on "The Civil War and Reconstruction," is to be by the same author. If it has the same strong texture that is in the volume before us, there will be good material to sharpen the wits of youthful statesmen. The whole of the great political drama of Slavery and Freedom is nowhere else presented in such clear and succinct form excepting in Woodrow Wilson's *Division and Reunion*, but that excellent little volume is much restricted in size and does not aim at that singleness of purpose which characterizes Professor Burgess's work.

*The Middle Period* is carefully fitted for the use of students with appendices showing the electoral votes and the cabinet officers, a chronology, a good bibliography and an index. There are five maps. There is a small typographical error on page 444, and, on page 53, in the fourteenth line, there is a serious omission of the words "prohibition of" before the phrase "further importations."

CHARLES H. LEVERMORE.

*Southern Statesmen of the Old Régime.* By WILLIAM P. TRENT, M.A., Professor in the University of the South. [Library of Economics and Politics, Vol. XIII.] (New York and Boston: Thomas Y. Crowell and Company. 1897. Pp. xv, 293.)

THE general trend of Mr. Trent's latest work is the same as that of his others; and therefore a brief consideration of his position may not be out of place. Mr. Trent is one of a few Southern writers who have taken a strictly scientific and independent attitude towards delicate constitutional and political questions, and, what is more striking, who have arrived at conclusions diametrically opposed to the orthodox views of their section. This characteristic alone would have given him notoriety, even if his work had lacked intrinsic merit; and certainly it explains in part the peculiar reputation he enjoys. Mr. Trent's attitude in the book under review merits nothing but commendation; but it would have been in better taste for him to let his work evidence his attitude and to avoid any specific expression of his determination not to be turned from his conclusions "by unstinted personal abuse."

This volume is a collection of lectures which were delivered before the University of Wisconsin, at Madison, in 1896. The lecture form is retained, and no substantial changes have been made. Mr. Trent's object, as he tells us, was to state in a broad and general way what sort of men Washington and Jefferson and Randolph and Calhoun and Stephens and Toombs and Davis were, what they have stood for in our history, how they are to be ranked as statesmen, and why and how far their memories are to be honored and respected; and to do this in a way sufficiently popular to interest readers who might be repelled by formal histories and biographies. He protests that he is not a specialist, and that he does not undertake primarily to add to our knowledge of facts. He does claim, however, to have emphasized more strongly than any one else has done certain characteristics of his subjects, and to have treated Jefferson Davis more fairly than he has been treated by most historians. He approaches his task "from the point of view of an American who is at the same time a Southerner, proud enough of his section to admit its faults, and yet to proclaim its essential greatness."

Washington, Jefferson, Randolph, Calhoun, Stephens, Toombs, and Jefferson Davis are the men whom Mr. Trent selected as representatives of the Old Régime. Mr. Trent forestalls criticism of this selection. It is to be regretted that Marshall and Madison are not included, and, it might be added, that Randolph was not omitted. All that Mr. Trent says of the last only emphasizes more strongly his striking lack of the essential qualities of a statesman. Mr. Madison is too little appreciated to-day; and it is unfortunate that Mr. Trent should have dismissed him with the statement that "he is in many respects simply a follower of Jefferson." It is especially desirable that Marshall should be kept before Southern people. They are too apt to forget that there were men in the South who took the national view of the Union. It occurs to very few that

most of the great popular heroes of the South may be appealed to in support of theories at variance with the orthodox Southern theory of the nature of the Union. Certainly Washington, Jackson and Marshall may be mentioned; and even Patrick Henry and James Madison. And it is overlooked that the first official refutation of the Southern theory was over the signature of a Southerner, President Jackson, and over the counter-signature of another Southerner, Edward Livingston. It is high time that more attention should be paid to the considerable minority, of which these men are types.

The view that Mr. Trent presents of Washington, Jefferson, and Randolph is substantially that unfolded in the "American Statesmen" series; the view of Calhoun, that set forth in Von Holst's works. They are in short the accepted views. What he has to say of Stephens and Toombs and Davis will be new to many of his readers and interesting to all. On the whole, only a slight addition is made to our historical knowledge. Of the seven lectures, that on Calhoun is the most satisfactory and the strongest; that on Washington is open to more criticism than any other. It is marred by extravagant assertion and strained comparisons. Mr. Trent fails in his primary object of arousing genuine enthusiasm for his hero. His presentation suffers in this respect in comparison with that of Mr. Lodge or with that of Mr. Woodrow Wilson. Chapter VI. of Vol. I. and Chapters I. and VII. of Vol. II. of Lodge's *Washington* would be more successful in accomplishing Mr. Trent's object than his own lecture. His characterization of Jefferson is very happy at times. His style enables him to set forth Jefferson's subtle qualities very aptly. But he cannot be said to give a well-rounded view of any of his characters.—Judge Huger's name appears on page 189 as "Hager."

DAVID F. HOUSTON.

*The Nicaragua Canal and the Monroe Doctrine.* A Political History of Isthmus Transit, with special reference to the Nicaragua Canal Project and the Attitude of the United States Government thereto. By LINDLEY MILLER KEASBEY, Ph.D., R.P.D., Associate Professor of Political Science, Bryn Mawr College. (New York: G. P. Putnam's Sons. 1896. Pp. xv, 622.)

THE voluminous title of this book fails to do justice to the extent and variety of its contents. It begins with an introduction, in which the physical features of all the routes across the Central American isthmus, from Tehuantepec to Darien, are described. This is followed by "Part One—The Mercantile Period and the Absolute Monarchy—The Canal Project a Royal Monopoly." The author here touches on the economic conditions of Greece and Rome, traces the development of Europe through the first fifteen centuries of the Christian era, gives some account of the Portuguese navigators, and so by easy stages arrives at the discovery of America. Next comes in due course a brief historical sketch of Central America, and an account of the various crude suggestions of a canal

which were put forward at various times beginning with the reign of Philip II.

Part Two deals with what the author is pleased to call "The Period of Liberalism and Individual Initiative," which, it appears, ended in 1865. This part of the book gives a short account of the origin of the Monroe Doctrine and a tolerably comprehensive history of the diplomatic dealings of the United States and Great Britain in reference to the Central American States. In treating of our foreign policy during this period Professor Keasbey becomes particularly forcible. The imbecility, if not treachery, of the American representatives is exhibited in vivid contrast with the sleepless energy and the almost Satanic cleverness which would appear to be habitual among British officials. Even John Quincy Adams, who is neatly described as the "instigator" of the Monroe Doctrine, does not escape censure for his "woeful lack of foresight," and for reducing the Monroe Doctrine to a mere phrase. There is not the least doubt in Professor Keasbey's mind that we ought to have intervened forcibly in the quarrels between the Central American States and Great Britain, and that we ought to have prepared for the "inevitable explosion." Therefore Polk, having omitted a "signal opportunity of asserting the Monroe Doctrine," is charged with pusillanimity and culpable negligence. Clayton, it seems, began with a virtual concession of British rights and a "betrayal of our claims;" and ended by eagerly accepting all of Sir Henry Bulwer's suggestions and by concealing from the President and the Senate matters of the most vital consequence. And Buchanan, we are told, "walked squarely" into a trap laid by Lord Napier, and "handed our case over into British hands."

The third part of the book treats of the period from 1865 to 1896. Some account is given of the numerous surveys of the isthmus executed by officers of the United States government; of the rise and fall of the French enterprise at Panama; of the correspondence relative to the Clayton-Bulwer Treaty, conducted by Secretaries Blaine and Frelinghuysen; and of the many unsuccessful attempts to put the construction of a Nicaragua Canal on a sound financial basis. Recent events at Bluefields are also related with sufficient fullness.

The fourth part of the book is in its nature prophetic. It is entitled "Probabilities and Possibilities of the Future—The Canal a National American Undertaking." The author, while betraying no diffidence as to his powers to forecast the political future, frankly admits that it is beyond his abilities to estimate the commercial effects of an inter-oceanic canal. He then cheerfully proceeds to devote many long pages, and several diagrams, to a "method of inquiry" which leads him to the conclusion that a canal on the Nicaragua route would infallibly stimulate our foreign commerce. His argument seems to be based on the notion that the element of distance is the only important factor in determining success in the competitions of international trade. Such circumstances as our own tariff policy, our shipping laws, future economies in railway transportation, possible extension of railway lines south of Mexico, are

all apparently ignored. We say "apparently" because it is not possible to speak with certainty as to the author's views on these points, or to be ever quite sure what he means. There is much handsome eloquence about "undercurrents of commerce" and breakers rising to their crest, but it fails to enlighten us.

The military and political problems to which a canal across Nicaragua would give rise are treated in a manner equally unsatisfactory. Professor Keasbey seems to believe that if a canal is ever built, the United States ought to insist on exercising an effectual control over it, and it is no doubt probable that the imperative interests of this country would, sooner or later, compel us to take and keep military possession of such a canal. We too should thus end by having our Egypt, our Gibraltar and Malta, our Cyprus and Aden. How far-reaching would be the result of embarking in such enterprises, how deeply they would affect our foreign policy and the very framework of our government, how enormous would be the cost in the needful additions to our army and our fleet—are matters well worthy of serious consideration; but they are matters not touched upon in the work under review. There are instead some remarks about "the machinations of our British rival," and "a vital struggle brewing for supremacy;" and there is a fling at international arbitration.

The book may serve as a convenient summary of events. It also contains useful references to some of the authorities. But its political and economic discussions are valueless, and there is a deplorable lack of historical insight. Defects of style are conspicuous. The language is often obscure, and the text abounds in trivial vulgarisms. Numerous errors in the spelling of French and Spanish words add to the disagreeable impression produced by these pages.

G. L. RIVES.

Mr. H. O. Taylor's *Ancient Ideals* is a very serious and earnest attempt to write—hardly the philosophy of ancient history, but the history of the ancient world philosophically considered. It is an attempt to interpret the history of the leading peoples of antiquity through their national ideals, not limiting the term to æsthetic or philosophical ideals, but including the political and distinctly practical. Or in other words, it is an attempt to answer the questions, how did each race conceive of life and how did its endeavor to realize this conception shape its history. Such an attempt manifestly lends itself to theorizing and to assertions which, like all those of a speculative character, admit of no proof. Mr. Taylor has not escaped this danger. His book is written on the basis of careful and extensive study, and it has much to offer the historical student, mainly in the way of interpretative suggestion. But it was written under the influence of certain preconceptions, as every such book is sure to be written until the ideally objective historian arises. The special thesis of the book is "the final universality of Christianity." All the special, distinctive "ideals" of the ancient peoples are taken up in a perfect and



divine synthesis in Christianity. This thesis dominates the author's study of all the details, whether they are religious, literary or political. The book really gives us, therefore, only a single side of history. A comparison of Mr. Taylor's treatment of Roman history with that of Mr. Brooks Adams in his *Law of Civilization and Decay* gives interesting results. If one did not know the fact beforehand, it would hardly be possible to arrive at the conclusion that the two authors were attempting to interpret to us the same history, so entirely different are the two sides of it which they study. A measure of truth is with both, the whole truth is with neither. We shall have to wait a little longer for some one to give us the whole pattern of history. Meanwhile the books are of value which make an earnest and scholarly attempt to trace a single thread or to study a single color.

In his *History of Ancient Peoples* (New York, Putnam's Sons, pp. 541), Professor Willis Boughton seeks to bring together in a single volume the information relating to ancient times which first appeared in the various volumes of the *Story of the Nations* series, and to improve on it by additions of material from other writers. The book is, therefore, an abridgment and condensation of second-hand material, and its value is corresponding. That a professor of English literature should have undertaken this task shows that he was inspired more by the missionary impulse than by sound judgment. While there have been some good books published in the *Story of the Nations* series, others are already hopelessly out of date, and some of the latter have been employed by Professor Boughton. The result is unfortunate. The amount and variety of inaccurate statement contained in the book make it utterly untrustworthy. The specialist may smile when he sees the "great commercial house of Jacob and Sons" paraded again among the spoils of modern archaeological research, and reads that "the northern Semitic group includes the older dialects, such as Hunyatic (!), Sabaeen and Old Ethiopian," and learns that Merodach-Baladan "visited Hezekiah, who received him cordially," and discovers that Abraham did not remain at Haran, "just south of Damascus," and finds the "cuneiform inscription" on page 19 upside down, etc., etc. But he must needs mingle his enjoyment with some regrets on behalf of "the class-room and the reading-circle" for which this book has been prepared. A pretentious list of authorities covering four pages and made up of books of very varying importance, omits the two greatest works with which the subject of this book is concerned, viz., Duncker's and Meyer's histories of antiquity, though it does contain Allen's *History of Civilization*! Though the book seems to have been prepared with the assistance of a college president "who has diligently read all the recent German, French and Italian works on ancient history, and who has employed his extensive historic and philologic knowledge in the revision of this work in manuscript," so slovenly a piece of work in this field has seldom received the imprint of a high-class publishing house.

G. S. G.

Edmond Stapfer, of the Faculty of Protestant Theology in Paris, widely esteemed for his works on Palestinian life in the first century, has completed two or three volumes dealing in popular style with the person, authority and ministry of Christ. An excellent English version is the work of Louise Seymour Houghton (*Jesus Christ Before His Ministry*, 1896, pp. 181, *Jesus Christ During His Ministry*, 1897, pp. 265, Scribner). The purposes of an historical narrative predominate and the work has admirable qualities. On the basis of very searching inquiry, the author offers his positive version of the life and aims of Jesus with only a slight occasional reference to the criticism which yields these results. The methods of the cautious critical historian are here used by a man of restrained but ardent religious passion and the exposition wins favor by a simple and graceful style. In spirit the work is a coalescence of Renan and Vinet, a blending of scientific conscience, sympathetic intuition, and apologetic conviction. The outcome is harmonious neither with theological orthodoxy nor with radical criticism.

Any dissatisfaction with the book among historical inquirers will rest chiefly with Stapfer's borrowings from the Fourth Gospel. This source is recognized as not purely historical, but yet of secondary value as from the associate of an apostle and entitled to correct certain errors and deficiencies of the first three gospels. Without arguing the detailed questions of incident and chronology, we may hold that the picture of Jesus in the Synoptics will not coalesce with that of the Fourth Gospel, and that the present skillful effort results only in a portraiture which departs from both sources without offering a solution of their discrepancies. The personal Messianic claim of Jesus, the insistence upon his personality as offering a test of allegiance, is brought into the foreground; but this is surely the very peculiarity of the Fourth Gospel which in comparison with the others marks it as a theological presentation. With this main exception all classes of readers will find this a judicious and delightful work.

F. A. C.

In his second volume, covering the presidency of MacMahon (Paris, Félix Alcan, 1897, pp. xii, 549), M. E. Zévort has produced a more satisfactory piece of work than the first volume of his *Histoire de la Troisième République*. Proportions are better observed, and no subjects of importance are omitted or slightly passed over, as was the case in the preceding volume. Attention may specially be called to the portions dealing with the enactment of the constitutional laws of 1875; the unusual ministerial conditions, exceptionally unsettled even for France, between December, 1876, and December, 1877; and the resignation of MacMahon in January, 1879. The last two—the so-called “sixteenth of May,” 1877, and MacMahon's resignation less than two years later—are amongst the half-dozen or dozen episodes in recent French history which specially illumine the workings of cabinet government as a borrowed institution, in one country at least, and which might, furthermore, serve as a valuable corrective to the conclusions of American enthusiasts

who have studied the system only as it works in England. The author very neatly sums up these six years of MacMahon's presidency as being, of all the governments of France, the weakest and most irresolute in internal affairs and the most peaceful in foreign relations. An appendix of a hundred pages contains the constitutional and organic laws of 1875, several notable political speeches, and other documents of interest.

C. F. A. C.

The eighth volume of Mr. Paul L. Ford's new edition of the *Writings of Thomas Jefferson* comprises his correspondence, with certain other papers, from his inauguration in March, 1801, to the end of the year 1808. How great an amount of new matter it contains may be seen from the fact that of the 220 letters which are printed in this volume, only sixty-nine are to be found in the corresponding section of the Congressional edition of Jefferson's *Writings*. On the other hand, the old edition contained some seventy which are not to be found in the present volume. The most interesting new matters in this volume are the pieces relating to Jefferson's inaugural addresses and annual messages (his drafts and the comments of Madison and Gallatin), his various letters and memoranda respecting the proposed constitutional amendment intended to legalize the acquisition of Louisiana, and a series of letters which exhibit him as looking out with anxious friendliness to provide a succession of public offices, as nearly sinecures as possible, for his old friend John Page.

The Southern History Association begins its quarterly *Publications* (Vol. I., No. 1) with its January issue, of 88 pages. An account of the organization of the association is given, followed by an interesting and valuable survey of the present state and prospects of historical studies in the South by Dr. Stephen B. Weeks. It exhibits the historical work recently done by the Southern states, colleges and historical societies,—a notable record on the whole. The lack of extensive historical libraries is plainly the chief hindrance. Dr. Weeks emphasizes the need of better and fuller bibliographies, and the importance of publishing documentary materials rather than more essays. Mr. T. L. Cole presents a first installment, dealing with Alabama, of an elaborate bibliography of the statute law of the Southern states. Aside from the "Current Notes" of historical publication and progress and the excellent contributions already mentioned, the other contents of this first number call for no remark. The new journal is well printed and carefully edited. Its possibilities are manifest to anyone who thoughtfully surveys the Southern field. Its scientific importance remains, naturally, to be established by the future numbers. A scientific intention and spirit on the part of its chief promoters is, at any rate, already evident.

In No. 2 the most important pieces are a journal of a removal from Virginia to Alabama in 1818, and a series of extracts from the journal of the Moravian bishop Spangenberg concerning his travels in North Carolina in 1752. Mr. Cole continues, with Arkansas.

Dr. Douglas Brymner's *Report on Canadian Archives* for 1896 (pp. xxxiii, 87, 252, 79), is chiefly occupied with a calendar of state papers of Lower Canada and Upper Canada from 1813 to 1818. Dr. Brymner also prints *in extenso* a number of letters relating to events preceding the war of 1812. The letters of John Henry to Mr. H. W. Ryland and to Sir James Craig are here, we believe, for the first time printed in complete form. The comparison of these letters actually sent with the copies which Henry sold to Mr. Madison brings out several points of curious interest. Henry garbled his letters very extensively before selling them. The originals contain many expressions unfavorable to the Democrats, which are suppressed in the copies sold to the American government; but they contain no more substantial evidence of Federalist treason than the versions which were sold. The letters to Ryland relate to a visit to Boston in 1808, but the batch sold to Madison relate solely to Henry's mission of the next year, as reported to Craig.

The Government Printing Office has issued the third and fourth volumes of the *Report and Accompanying Papers of the Commission appointed by the President of the United States "to investigate and report upon the true divisional Line between the Republic of Venezuela and British Guiana."* Vol. III. (pp. 517) consists of a group of geographical reports and contributions by the secretary of the Commission and three experts whose aid it invoked. A report on the maps of the Orinoco-Essequibo region, made to the Commission early in the course of its deliberations, by Dr. Justin Winsor, is general in its nature. As the maps pertinent to the investigation are of two classes, those bearing an official character and those published by geographers, two elaborate and scholarly essays deal with these. Professor George L. Burr reports at length on the official maps encountered by him during his researches in European archives, and on others of the same class which came before the Commission; the secretary of the Commission, Mr. Mallet-Provost, on the cartographical testimony of geographers. The remainder of the volume,—more than half,—has been prepared by Mr. Marcus Baker, a professional geographer of the United States Geological Survey. He presents a series of Notes on the Geography of the Orinoco-Essequibo Region, and an elaborate bibliographical list of maps of that region. His original object was to make an exhaustive compilation of all the accessible geographical facts relating to the disputed area, and a complete list of maps. But the suspension of the work of the Commission upon the conclusion of the arbitration treaty between England and Venezuela suspended also his work, the results of which are therefore here presented in the form of what he prefers to call notes. Vol. IV. consists of an atlas, wherein are contained 76 well-executed maps. Of these, three show the physical geography of the disputed region. Twelve are drawn especially to illustrate the historical and diplomatic questions discussed in the previous volumes of the report. The remaining 61 are reproductions of maps, published and unpublished, of all periods from 1538 to 1875, which have

an individual importance to the objects which the Commission had before it. The first two volumes, which are to be historical in character, are expected to appear shortly. We shall notice them upon their appearance; meanwhile it is sufficient to say that never in the history of diplomacy, probably, has a boundary dispute been illustrated by a more thorough, penetrating, ingenious and impartial historical investigation than that which Professor Burr has devoted to this problem.

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[The following collection is of lists of civil officers only, and does not extend to other states than the original thirteen. It is well known that, beside such collected lists as are here noted, the journal of a session of a legislative assembly frequently contains a list of the members; of such single lists in annual volumes no mention is here made. The same is true of journals of conventions. Law reports usually contain lists of the judges sitting during the brief period covered by each volume. The table being intended for general utility to researchers, lists in rare books have not been included. Lists of town officers have not been included, except sometimes in the case of the chief city of a province. The lists of course vary in respect to accuracy. The order followed is the familiar order of "executive, legislative, judicial," then, if inserted at all, the lists of federal and local officers.]

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## 2. *The Transliteration of Russian Names.*

Of all the names that confront the student of European history none are more puzzling to the eye and ear than those of the Russians, and it was with considerable reason that the humorist gave as his rule for pronouncing Russian names—"sneeze twice and say *ski*!" The names are difficult enough in many instances when pronounced by the facile-tongued subjects of the Tsar, but when their fantastic forms meet English eyes after more or less illogical transliterations into Polish, German and French the confusion and dissonance are such as to demand some alleviation.

Fortunately for such an attempt but few conventional forms obstruct the way. The former capital of Russia is by her citizens called Moskva, and as the Slavonic *v* is a compromise between *w* and *v*, the early German traders of the Hansa towns by a transposition called it Moskau. To reproduce the sound of the German name Englishmen used the spelling Moscow, the last syllable of which was pronounced like the name of the domestic animal similarly spelled. It would be absurd, of course, to change the orthography of a name so conventionalized, but such instances are not numerous. The bulk of Russian proper names have a multiplicity of forms which historical writers have hitherto used with little or no attempt at uniformity, a fact of particular annoyance to a student consulting an index or a catalogue. It may be fairly assumed that no prejudice in favor of established usage—since there is no established usage—will meet an attempt to sketch the lines of a simple, rational and uniform system of transliteration.

The Russian language is a difficult one, of that there is no doubt; Gorchákov easily checked Bismarck's attempt to introduce German as the diplomatic language by informing the chancellor that he might write to the ministry at St. Petersburg in German if he desired, but that he must expect replies in Russian. But if Russian names look particularly formidable in their French or German dress, note also how unrecognizable are English words which have undergone the same process. The truth is that we have many sounds in common with the Russians which the French and Germans can only approximate by awkward combinations of characters. In such cases as this it is obviously absurd to keep the various clumsy borrowed forms instead of taking simple ones directly from the source. Take, for example, the name of the Russian composer; why should we write him Tschaikowski with the Germans, or Tchaïkoffsky with the French, when Chaïkovski exactly transliterates the Russian? How can one with any facility consult an index when he may expect to find the well-known Russian statesman burdened with the name Schuwalow if the author indexed has used chiefly German sources, or Chouwaloff if French authorities are responsible for his information, whereas

a Russian, were he to use the English alphabet, would write it Shuválov. It is not at all surprising that the name of the greatest of Russian generals is unintelligibly pronounced when it appears as Suwarow or Souworoff instead of Suvórov. Indeed the sympathies of the writer and the authorities he has used, whether German or French, may be detected by noting whether he has used the German or the French forms of transliteration. The Polish language, which is very similar to the Russian in many respects, uses the Roman alphabet but gives to the letters sounds very different from those which they represent in other languages. In this way it has been responsible for a few of our illogical spellings, as for example the word Czar, which should be written Tsar.

It is possible without any reference to Russian characters, but simply by a comparison of French and German forms, to formulate a simple and useful if not entirely complete canon of transliteration and pronunciation. As to accent, the majority of Russian names, especially those ending in *-ov*, *-ski*, or *-vich*, have the stress on the penult; thus Románov, Dolgorúki, Turgénev, Danilévski, Tsarévich. The feminine form of the ending *-ov* is *-ova*; of *-ski*, *-ska*; and of *-vich* (meaning *son of*) *-vna*. The son of Peter Tuberovski would be called, for example, Ivan Petróvich Tuberovski, while his daughter might have the name Anna Petróvna Tuberovska.

For a canon of transliteration it will perhaps be simplest to mention various English letters or combinations of letters and the French and German forms which should be replaced by them. The changes chiefly to be observed are as follows:

*Ch* should replace the German *tsh* and the French *tch*, as Gorchákov. *G* is always hard; where the French are obliged to write *gu* on this account they should not be copied, as Turgénev.

For *kh* German writers use *ch*, which is much too guttural to represent correctly the Russian, writing Astrachan for Astrakhan.

*S* and *z* have their exact equivalents in Russian, but German and French scholars frequently use *s* for the latter and *ss* for the former, writing Wassili for Vasili, and Rasumowski or Rasoumoffsky for Razumovski.

*Sh* should be used for the German *sch* and the French *ch*, as Dashkov. For *ts* the Germans write *z*.

*V* correctly transliterates the third letter of the Russian alphabet, which French and German writers have variously represented by *w* and *ff*, e. g., Vorontsov. To be sure *ff* at the end of a word more correctly approximates the Russian pronunciation, but for the sake of uniformity it is much better to use *v* in all cases, and this usage has been adopted by the authorities of the British Museum. The Russian character for this letter is *В* and to this was due the mistake by which Sevastópol was formerly written Sebastopol.

*Zh* should be used where the French use *j*, so Nizhni Novgorod.

The vowels *e* and *i* must be retained as in the French and German with their continental pronunciation (*e*=*ē* and *i*=*ē*); but *i* (German *j* and French *y* in some cases) standing before a vowel

has its force as a consonant. In Russian these combinations are expressed by single characters and we take our transliteration from the Polish; thus *Diébich* has two syllables and *Paskiévich* has three. *Y* however may be used at the beginning of a word instead of *I*, as in *Yermólov*.

For *u*, pronounced *oo* when not preceded by *i*, the French use *ou*, writing *Zouboff* for *Zubov*.

Scarcely less puzzling are Polish names, which are apparently unpronounceable and labor under the additional disadvantage of not being subject to transliteration. This is due to the fact that since Roman characters are used Polish names have naturally been adopted without change of spelling, although many of these characters represent sounds entirely different from those for which they are used in English. A mention of some of these peculiarities will perhaps be useful in showing the similarity between Polish and Russian names and in rendering somewhat easier their pronunciation. Following are a few of the Polish characters and their English equivalents:

*c=ts*; *ch=h*; *cz=ch*; *ia=yah*; *ie=yā*; *sz=sh*; and *w=v*.

The following names will serve to illustrate the peculiar uses of the letters here mentioned: *Chlopicki* (*Hlopitski*), *Czartoryski* (*Chartoriski*), *Sienkiewicz* (*Sienkiévich*), and *Paderewski* (*Paderevski*).

The object of this brief outline of Russian-English transliteration has been to be of service to those who have occasion to use Russian names but are not acquainted with the Russian language. Elaborate treatment of the vowel-changes and the hardening and softening of consonants peculiar to Slavonic languages has not been attempted, but only those things have been noted which seemed of value for practical use; and it is in the hope that some advance may be made towards uniformity and simplicity in the spelling of Russian proper names in historical works that this article is written.

JEROME BARKER LANDFIELD.

## NOTES AND NEWS

The Duke of Aumâle, who might not unfitly be called the first citizen of France, died on May 7, at the age of seventy-five. Born in 1822, he was the fourth son of Louis Philippe. After the exile of the family, he began in England the series of his historical works, with two monographs on the captivity of King John of France and on the siege of Alesia respectively. His great work, his *Histoire des Princes de Condé pendant le XVI<sup>e</sup> et le XVII<sup>e</sup> Siècles*, was begun in exile. Its first volume could not be published in France till 1869. Seven volumes have been published, of which the last five relate to the Great Condé. The seventh, published last year, was noticed on pp. 141-143 of this volume. The Duke became a member of the Académie Française in 1871, when his return to France was permitted. He resided thenceforth at Chantilly, except during a second period of exile under the present republic. He was widely esteemed as a scholar and as a man of noble character.

Homersham Cox, barrister and mathematician, and author of *Antient Parliamentary Elections*, 1868, and of a *History of the Reform Bills of 1866-1867*, died on March 10, aged 75.

The Rev. Nicholas Pocock, contributor of many valuable articles on English ecclesiastical history to the *English Historical Review*, died on March 4, aged 83.

Konstantin Bestushev-Riumin, Russian historian, died on January 15, aged 67. His chief work was his critical history of Russia, in two volumes, extending to the end of the sixteenth century; it has been translated into German.

Mr. A. Lawrence Lowell has been appointed a lecturer in the department of history and government at Harvard University; Professor O. H. Richardson, of Drury College, has been called to Yale University.

Among offers of prizes which may possibly be tempting to American scholars we note: that of the Belgian Royal Academy for 1897, for an essay on religion and worship in ancient Crete; for 1898, for a critical study of the lives of the saints of the Carolingian period; that of the Rubenow-Stiftung in Greifswald, for 1901 (2000 marks), for a history of public opinion in Prussia and especially in Berlin from 1795 to 1806; the king of the Belgians' prize of 25,000 francs, for 1901, for a military history of Belgium from Roman times; and that for 1900 (1000 marks) on the part of the Fürstlich Jablonowski'sche Gesellschaft, for a study of the social and legal condition of artisans and the economic organization of industry in ancient Greece. The Academy of Inscriptions and Belles-Lettres announces, among the subjects for the Prix Bordin for

1899, a study of the sources of the Golden Legend of Jacobus de Voragine. The Academy of the Moral and Political Sciences announces, for 1899, among other themes, the history of liberty of conscience and of worship in France from the accession of Henry IV. to 1830; and the relations between the colonial policy and the European policy of France from the treaty of Utrecht to 1789. The International Association for the Study of Comparative Jurisprudence and Political Economy, which has its headquarters at Berlin, offers a prize of 1600 marks for the best essay presenting a comparative study of the principles followed, in the colonies of the principal states, in the acquisition of land and in colonizing it, and of the results of the same.

The *Jahresbericht für die Geschichtswissenschaft* for 1895 (Berlin, R. Gärtner, pp. 1252) appears with the name of the new editor, Dr. Ernst Berner. The chapters essential to the complete scheme of the *Jahresberichte* are nearly all present in this volume, the only important exceptions being those on medieval England, Russia, and encyclopædia and methodology.

The *Revue Internationale des Archives, des Bibliothèques et des Musées* ends its useful existence with its ninth number. M. Henri Stein announces that in its stead he will publish (38 rue Gay-Lussac, Paris) *Le Bibliographe Moderne, Courrier international des Archives et des Bibliothèques*, intended to occupy the first two of the three fields covered by its predecessor. The periodical will appear once in two months, and the price in this country will be 12.50 francs. The first number (January-February, pp. 64) contains an account of the new organization of the national archives at Paris, and many items of news interesting to students of history.

The trustees of the Boston Public Library have issued in a pamphlet of sixty-five pages a *Brief Description of the Chamberlain Collection of Autographs*, formed by the Hon. Mellen Chamberlain, and now deposited in that library.

Mr. John Lane publishes an elaborate illustrated work by Mr. Charles A. Thimm, entitled *Complete Bibliography of Fencing and Duelling as Practised by all European Nations from the Middle Ages to the Present Day*.

*Le Muséon* and the *Revue des Religions* have been consolidated, and begin a new series with the title *Le Muséon et la Revue des Religions: Études historiques, ethnologiques et religieuses*.

S. Hirzel, of Leipzig, announces a new volume of essays by the late Professor H. von Treitschke, *Biographische und Historische Abhandlungen vornehmlich aus der neueren Geschichte*.

Under the title *A History of China*, Mr. F. W. Williams, of Yale University, has reprinted the historical chapters from the late Professor S. Wells Williams's *The Middle Kingdom*, adding a narrative, proportional in length, of the events of the last twenty years (Scribner).

## ANCIENT HISTORY.

Professor Charles Michel, of the University of Liège, has published the first part (Paris, Ernest Leroux, pp. 192) of a *Recueil des Inscriptions pour servir à l'Étude de l'Histoire et des Institutions de la Grèce Ancienne jusqu'à la Conquête Romaine*. This manual, of which the plan seems excellent, aims to utilize the results of epigraphic study achieved down to the present time. Part I. deals with international regulations and with laws and decrees. Parts II. and III., which will conclude the book, will complete the section of laws, and will present inscriptions relating to administration, worship and private law.

Professor W. M. Ramsay has brought out the second part of Vol. I. of his *Cities and Bishoprics of Phrygia*, dealing with western and west-central Phrygia; the first part was noticed in our last number.

In Jahrg. XXIV., Hefte 8-10 (or in Vol. 90), of the *Jahresberichte über die Fortschritte der classischen Alterthumswissenschaft*, Dr. D. Detlefsen has an extended general review of the publications of the years from 1883 to 1893 relating to the geography of the northern and western provinces of the Roman Empire. In Jahrg. XXV., 1 (Vol. 94), Dr. L. Hüter begins a general review of publications in Roman history, 1889-1893.

Noteworthy articles in periodicals: J. Kohler, *Die Urgeschichte des Heiraths* (*Zeitschrift für vergleichende Rechtswissenschaft*, 1897, 2-3); J. M. P. Metcalfe, *The Tell el-Amarna Letters* (*Bibliotheca Sacra*, April); G. Gilbert, *Beiträge zur Entwicklungsgeschichte des griechischen Gerichtsverfahrens und des griechischen Rechtes* (*Jahrbücher für classische Philologie*, Supplementband XXIII. 2); G. Friedrich, *Die Entstehung des Thukydideischen Geschichtswerkes*, I. (*Neue Jahrbücher für Philologie*, 155, 3); B. Niese, *Zur Würdigung Alexanders des Grossen* (*Historische Zeitschrift*, LXXIX. 1); W. Wittich, *Die wirthschaftliche Kultur der Deutschen zur Zeit Cäsars* (*ibid.*); A. Wilms, *Das Schlachtfeld im Teutoburger Walde*, II. (*Neue Jahrbücher für Philologie*, 155, 3); J. Toutain, *Études sur l'Organisation municipale du Haut-Empire*, I. (*Mélanges d'Archéologie et d'Histoire de l'École Française de Rome*, XVI. 5); M. Büdinger, *Ammianus Marcellinus* (*Denkschriften der k. Akademie der Wissenschaften, phil.-hist. Cl.*, XLIV.).

## EARLY CHURCH HISTORY.

The "historical bulletins" which have hitherto appeared in the *Zeitschrift für Kirchengeschichte*, reviewing the recent work of various lands in church history, will hereafter be replaced by simple bibliographical lists.

The Vienna Academy has begun the publication of its edition of the works of St. Ambrose in its *Corpus Scriptorum Ecclesiasticorum Latinorum*, Vol. XXXII., pars I. (Vienna, Tempsky, pp. 497). The editor is Dr. Karl Schenkl.

M. J.-B. Chabot has undertaken to publish in the *Notes et Extraits des Manuscrits* the Syriac text, with French translation, of the *Synodicon Orientale*, containing the acts and decisions of thirteen councils convened by the catholicos Isaac (410) and by various Nestorian patriarchs, down to 694. They are of much value for the religious and political history of Persia.

Dr. M. A. Stiegler contributes to the *Archiv für katholisches Kirchenrecht*, LXXVII. 1, an important study on *Dispensation und Dispensationswesen in ihrer geschichtlichen Entwicklung bis zum 9. Jahrhundert*.

A plan for a critical edition of the papal documents down to the time of Innocent III. is set forth in the *Historische Zeitschrift* (LXXVIII. 3), by Otto Krauske, on the lines of a paper read to the Royal Academy of Göttingen by Dr. P. Kehr.

#### MEDIEVAL HISTORY.

Professor Harald Hjärne of the University of Upsala is the editor of a convenient collection of medieval texts for the use of students, *Medeltidens Statskick- (omkr. 800-1350) vålda Texter*. Of the one hundred and seventeen documents, fifty-one relate to Sweden; the others illustrate the history of England, France, the Papacy and the Empire (Upsala, Historiska Föreningen, pp. 426).

Professor Oliver J. Thatcher, of the University of Chicago, the senior author of the text-book of the history of the Middle Ages reviewed in our last number, has published *A Short History of Mediæval Europe* (Scribner, pp. 325).

M. Diehl's *L'Afrique Byzantine, Histoire de la Domination Byzantine en Afrique, 533-709* (Paris, Leroux, pp. 644), has been crowned by the Academy of Inscriptions and Belles-Lettres, and is commended as a work of great value in a field comparatively fresh.

The Benedictines of Stanbrook Abbey will shortly publish (Art and Book Company) a book on *Gregorian Music, an Outline of Musical Palæography*, illustrated by fac-similes of ancient manuscripts.

Professor Haskins's article in our number for October, 1896, on the Vatican Archives, is warmly commended in the last number of the *Revue Internationale des Archives*: "Cette dissertation, très substantielle, est actuellement le meilleur répertoire qui existe des renseignements sur les Archives pontificales et sur les travaux qui ont été exécutés jusqu'ici dans ces Archives." The *Catholic University Bulletin* for April reprints the article under the title of *Research-work in the Vatican Archives*.

M. Ch.-V. Langlois has gathered into a thin volume (pp. 115) under the title *Formulaires de Lettres du XII<sup>e</sup>, du XIII<sup>e</sup> et du XIV<sup>e</sup> Siècle*, five separate reprints from the *Notices et Extraits des Manuscrits de la Bibliothèque Nationale*, dealing with a considerable number of the form-books of medieval scribes.

Dr. Albert H. Newman has published, through the American Baptist



Publication Society of Philadelphia (pp. 414), a *History of Antipedobaptism from the Rise of Pedobaptism to A.D. 1609*.

Noteworthy articles in periodicals: W. Sickel, *Die Privatherrschaften im fränkischen Reiche* (Westdeutsche Zeitschrift, XVI. 1); Sägmüller, *Die Idee Gregor's VII. vom Primat in der päpstlichen Kanzlei* (Theologische Quartalschrift, LXXVIII. 4); H. Hagenmeyer, *Der Brief des Kaisers Alexios I. Komnenos an den Grafen Robert I. von Flandern* (Byzantinische Zeitschrift, V. 1); K. Fitting, *Die Summa Codicis und die Quaestiones des Irnerius* (Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, XVII., Rom. Abth.); G. Salles, *L'Institution des Consuls, son Origine, son Développement au Moyen Age* (Revue d'Histoire diplomatique, 1897, 2).

#### MODERN EUROPEAN HISTORY.

The Clarendon Press intends to bring out a series of five books of musical history under the general editorship of Mr. Hadow, who will write the volume on the Viennese School and its times. Mr. E. Dannreuther has been assigned to write the volume on the Romantic Movement; Mr. Fuller-Maitland will deal with the age of Bach and Handel, Dr. Herbert Parry with the music of the seventeenth century, and Professor Woodbridge with the ecclesiastical music of the preceding ages.

A book casting an important amount of light on the relations between France and Italy in the early years of the sixteenth century is M. Léon G. Pélissier's *Recherches dans les Archives Italiennes: Louis XII. et Ludovic Sforza*, two vols. (Montpellier, Boehm, pp. 523, 538).

That portion of President White's *History of the Warfare of Science with Theology* which treats of the miracles of St. Francis Xavier is warmly criticized in the *Analecta Bollandiana*, XVI.

The Hakluyt Society issue in this present year the first volume of *Danish Arctic Expeditions*, comprising the Danish expedition to Greenland of 1605 to 1607, with James Hall's voyage of 1612, edited by Messrs. C. C. A. Gosch and Miller-Christy. The second volume, edited by the same scholars, will comprise the narrative of Jens Munk's voyage to Hudson Bay, 1619-1620. Other volumes proposed by the society will contain a journal of the first voyage of Vasco da Gama, translated from the Portuguese, the *Topographia Christiana* of Cosmas Indicopleustes, a translation of Bernal Diaz's *True History of the Conquest of New Spain*, and a new edition, edited by Mr. Everhard F. im Thurn, of Raleigh's *Discoverie of the Empire of Guiana*, of which the first edition, edited by Sir Robert H. Schomburgk (1848), is out of print.

Dr. Isaia Lanzarini has published the second and concluding volume of his useful compendium entitled *I principali Trattati Politici fra gli Stati Europei dal 1648 al 1878 ordinati e sommariamente esposti con note e tavole illustrative* (Reggio, Calderini). This second volume covers the years from 1792 to 1878. The plan, as in the preceding volume, is to give in Italian a summary of the substantial and characteristic portions of

each European treaty. The treaties, of which 339 are presented in the present volume, are set in chronological order, with historical notes and comments. The whole is executed with great care.

Father Augusto De Benedetti has published an essay entitled *La Diplomazia Pontificia e la prima Spartizione della Polonia* (Pistoia, Flori e Biagini, pp. 132), based upon unpublished documents drawn from the secret archives of the papacy.

MM. Calmann Lévy have published the second volume of the *Correspondance Politique du Comte Pozzo di Borgo et du Comte de Nesselrode*, 1814-1818.

General Anton von Scudier, of the Austrian army, has published a volume entitled *Considerazioni sulla Campagna del 1866 in Italia*.

Noteworthy articles in periodicals: R. de Cisternes, *La Conférence d'Aix-la-Chapelle, d'après la Correspondance inédite du Cardinal de Richelieu* (Cosmopolis, March); *Corsica* (Edinburgh Review, April); G. B. Adams, *A Century of Anglo-Saxon Expansion* (Atlantic, April); J. Potrel, *La Russie et la Rupture de la Paix d'Amiens* (Annales de l'École Libre des Sciences Politiques, 1897, 1); Comte E. Lefebvre de Behaine, *Léon XIII. et le Prince de Bismarck*, I. (Revue des Deux Mondes, March 1).

#### GREAT BRITAIN AND IRELAND.

The latest historical publications of the British government are Vol. IX. of the *Register of the Great Seal of Scotland* (1634-1651), edited by Mr. John Maitland Thomson, and Vol. XVI. of the *Exchequer Rolls of Scotland* (1529-1536), edited by Mr. George P. McNeill.

The *Report of the Deputy Keeper of the Public Records* for 1896 contains an account of the Rolls Chapel. That of the Deputy Keeper for Ireland contains a report on the early Plea Rolls, from 51 Edward III., in continuation of the matter presented in 1894, and a table showing the present custodies of parochial records.

A new monthly journal, the *Genealogical Magazine*, made its appearance upon the first of May. The publisher is Mr. Elliot Stock, 62 Paternoster Row. The magazine will attempt to combine interesting illustrated family histories with those accurate and detailed evidences which constitute the real value of genealogical writings. Heraldic matter, extracts from notable parish registers, and copies of memorial inscriptions illustrative of family history, will also appear. It is intended that the monthly record of new genealogical publications and the chronicle of all matters relating to the devolution or creation of titles, honors, promotions, ceremonials, etc., shall be unusually full. The first number contains an article by Mr. J. H. Round on the surrender of the Isle of Wight, some information respecting Bradford's *History of Plymouth Plantation*, a curious tale of the Sobieski Stuarts, and the beginning of a detailed account of Shakespeare's family.

The fiftieth volume of the *Dictionary of National Biography* extends

from Rus to Sco. The articles of most interest to American historical scholars are, probably, those on Bolingbroke, by Mr. Leslie Stephen; on Oliver St. John, by Mr. C. H. Firth; on Sancroft, by Mr. W. H. Hutton; on Sir E. Sandys, by Mr. A. F. Pollard; on Halifax, by Mr. Thomas Seccombe; and on Schomberg, by Mr. Robert Dunlop.

The London School of Economics and Political Science has offered, during its summer term (May and June), a course in palæography and diplomatic, chiefly of English manuscripts and records from the twelfth to the seventeenth century, by Hubert Hall, F.S.A., of the Public Record Office.

A new edition of Low and Pulling's *Dictionary of English History* is announced by Messrs. Cassell and Co.

Dr. Arthur J. Mason, canon of Canterbury, has prepared a historical handbook for the thirteenth centenary of the introduction of Christianity into England, which is to be published by the Cambridge University Press under the title *The Mission of St. Augustine to England according to the original Documents*.

In the May number of the *Revue Historique* M. Ch. Bémont begins a comprehensive survey of the publications relating to the medieval history of England, chiefly those of the last three years.

From the *Sitzungsberichte* of the Vienna Academy Dr. J. Loserth has reprinted an elaborate paper entitled *Studien zur Kirchenpolitik Englands im 14. Jahrh.; I. Theil, Bis zum Ausbruch des grossen Schismas, 1378*, (Vienna, C. Gerold's Sohn, pp. 135).

The Royal Historical Society has issued, in two volumes (Longmans, pp. 724), *The Domesday of Inclosures, 1517-1518*, comprising the extant returns to Chancery from various counties, edited by Mr. J. S. Leadam.

Part II. of the Appendix to the *Fifteenth Report of the Historical Manuscripts Commission* is occupied with the Acts of the Privy Council in Ireland, 1556-1571, printed from a manuscript formerly belonging to Charles Haliday of Dublin and now possessed by the Royal Irish Academy. The preceding and succeeding volumes, down to the early part of the reign of James I., are lost; but ancient tables of their contents exist and are printed in this volume.

The latest volume of the Scottish History Society comprises the diary of Sir Archibald Johnston of Wariston for 1639; the Preservation of the Honours of Scotland, 1651-1652; Lord Mar's Legacies, 1722-1727; and letters concerning Highland affairs in the eighteenth century by Mrs. Grant of Laggan.

*The Early History of the Scottish Union Question*, by Mr. G. W. T. Omond, will shortly be published by Messrs. Oliphant, Anderson and Ferrier, who have recently brought out the same author's *Fletcher of Saltoun*.

The first volume of Mr. Osmund Airy's new edition of Burnet's

*History of My Own Time* (Macmillan, pp. 646) is the first of two volumes relating to the reign of Charles II., and carries the narrative down to 1672.

The house of John Murray will publish the *Autobiography and Correspondence of Augustus Henry, third Duke of Grafton*, from hitherto unpublished documents in the possession of his family, edited by Sir William R. Anson, Bart., warden of All Souls College, Oxford.

In the Heeren and Ukert series, *Geschichte der europäischen Staaten*, Dr. Moriz Brosch's *Geschichte von England* is continued by the addition of a tenth volume, covering the period from 1815 to the completion of Peel's reforms.

Mr. Justin McCarthy has published (Harper) a third volume of his well-known *History of Our Own Times*, bringing the narrative down from 1880 to the commemoration of the sixtieth year of the Queen's reign.

Noteworthy articles in periodicals: J. H. Round, *The Earliest Fines* (English Historical Review, April); J. J. Jusserand, *Jacques I. d'Écosse fut-il poète?* (Revue Historique, May); R. H. C. Fitzherbert, *The Authorship of the "Book of Husbandry" and the "Book of Surveying"* (English Historical Review, April); J. Gairdner, *New Lights on the Divorce of Henry VIII.*, III. (English Historical Review, April); A. Parnell, *James Macpherson and the Nairne Papers* (English Historical Review, April); *Edward Gibbon* (Edinburgh Review, April).

#### FRANCE.

M. H. Martin has completed the *Catalogue des Manuscrits de l'Arsenal* by the addition of a seventh volume, containing the index to the whole.

M. Henri Sée has published (Paris, Picard, pp. 134) a careful *Étude sur les Classes rurales en Bretagne*, which originally appeared as articles in the *Annales de Bretagne*.

The second issue of the *Répertoire Méthodique du Moyen Age Français* prepared by A. Vidier for *Le Moyen Age* has just appeared in separate form. It is devoted to the publications of the year 1895 and contains 5135 titles (Paris, E. Bouillon, pp. 190).

In the *Bibliothèque de la Faculté des Lettres* of the University of Paris, the third number, edited by Professor Luchaire, consists of three studies, under the general title of *Mélanges d'Histoire du Moyen Age*. Of these the most important is one by M. Luchaire himself, upon *Hugue de Clers et le "De Senescalcia Franciæ,"* in which, upon the basis of careful study, he controverts the conclusions expressed regarding this treatise by M. Bémont in the *Études d'Histoire du Moyen Age*, recently published in honor of M. Gabriel Monod.

It is expected that M. André Lebon, minister of the colonies, will contribute a volume on *Modern France* to the series called "The Story of the Nations."

The first volume of the general catalogue of the incunabula of France, prepared by Mlle. M. Pellechet, is upon the point of publication.

M. Berthold Zeller has added to his *Marie de Médicis et Sully* (1892) a study of the period of Villeroy, 1612-1614, *La Minorité de Louis XIII.; Marie de Médicis et Villeroy* (Paris, Hachette, pp. 387), a picture of the court and of politics constructed especially out of materials drawn from the Venetian and Florentine archives.

An episode in the history of the French Revolution is treated in G. A. Crüwell's *Die Beziehungen König Gustafs III. von Schweden zur Königin Marie Antoinette von Frankreich* (Berlin, A. Duncker, pp. 88).

M. A. Chuquet is preparing, partly upon the basis of new documents, a book entitled *La Jeunesse de Napoléon*.

To its series of documentary publications relating to the French Revolution the city of Paris has recently added two volumes edited by M. Alexandre Tuetey, *L'Assistance Publique à Paris pendant la Révolution: Documents inédits recueillis et publiés* (Imprimerie Nationale, pp. cxcii, 792, 729). Other volumes are to follow. Those now printed contain documents relating to hospitals, hospices, etc., from 1789 to 1791.

The Ministry of Public Instruction has published the third volume of its *Procès-Verbaux du Comité d'Instruction Publique de la Convention Nationale* (Paris, E. Leroux) covering the period from 1 Frimaire to 30 Nivôse, an II.

Beside his great Napoleonic bibliography, A. Lombroso is publishing a series of *Miscellanea Napoleonica*, of which the second part (pp. lxxvi, 177) has now appeared. It contains a variety of interesting, and, in some cases, important documents hitherto unprinted.

Messrs. Longmans, Green and Co. print a translation, by Mrs. Arthur Bell, of the *Memoirs of Baron Lejeune*, aide-de-camp to Berthier, Davoust and Oudinot.

M. Jean Cruppi, avocat-général, has published (Marchal et Bellard) a discourse delivered by him on *Napoléon et le Jury*, setting forth the unavailing efforts which Napoleon made during fifteen years to remove the jury from the system of criminal jurisprudence in France.

Count Boulay de la Meurthe has published the fourth and fifth volumes of his *Documents sur la Négociation du Concordat*, completing this important series. The new volumes relate to the passage of the Concordat through the Tribunat and the Corps Législatif, and terminate in several appendices to the general series. The book is issued by the Société d'Histoire Diplomatique.

The National Printing-office has issued a supplementary *Inventaire sommaire des Archives du Département des Affaires Étrangères; Mémoires et Documents, Fonds France et fonds divers* (pp. 247). It covers the years from 1814 to 1830, for which the archives were thrown open by ministerial decree in 1891.

Much interest has been aroused by the memoirs of General Trochu, *Œuvres Posthumes* (Tours, Mame, two vols., pp. 663, 405), written at various times between 1874 and 1894. The first and most important volume is the unsuccessful general's account of the siege of Paris, an honest, instructive and valuable narrative. The second contains observations on the political and social development of France under the Third Republic, the reflections of an acute, but severe and pessimistic mind.

Noteworthy articles in periodicals: E. Jenks, *Fustel de Coulanges as a Historian* (English Historical Review, April); C. V. Langlois, *Les Travaux sur l'Histoire de la Société Française au Moyen Age, d'après les Sources littéraires* (Revue Historique, March); L. Batiffol, *Le Châtelet de Paris vers 1400*, IV. (Revue Historique, March); A. Spont, *La Milice des Francs-archers, 1448-1500* (Revue des Questions Historiques, April); Count Baguenault de Puchesse, *Catherine de Médicis et les Conférences de Nérac, 1578-1579* (Revue des Questions Historiques, April); G. Clément-Simon, *La Vie seigneuriale sous Louis XIII. : le Vicomte de Pompadour* (Revue des Questions Historiques, April); Comte d'Haussonville, *Le Duc de Bourgogne*, I., II. (Revue des Deux Mondes, February 1, April 1); L. Fleys, *Louis XV., Marie-Thérèse et la Paix de l'Europe en 1758* (Revue d'Histoire Diplomatique, 1897, 1); A. Onou, *La Comparation des Paroisses en 1789* (La Révolution Française, March 14); A. Chuquet, *Napoléon Bonaparte au Siège de Toulon* (Cosmopolis, January); F. Masson, *Les Bonaparte et le 18 Brumaire* (Revue de Paris, January 15); *Correspondance du Duc de Richelieu* (Cosmopolis, April); E. Wertheimer, *Documents inédits sur la Maladie et la Mort du Duc de Reichstadt* (Revue Historique, May); M. Philippson, *Adolphe Thiers, Geschichtschreiber* (Cosmopolis, May); É. Ollivier, *Le Prince Louis Napoléon*, IV. (Revue des Deux-Mondes, January 15).

#### ITALY AND SPAIN.

The plan of Professor Mazzatinti's *Gli Archivi della Storia d'Italia*, as now announced, is about as comprehensive as that of MM. Langlois and Stein's *Archives de l'Histoire de France*. Documents bearing upon modern history down to the present time will be included; but it does not appear that the scheme embraces foreign archives. One volume will be published per annum, in parts. The publisher will be Licinio Cappelli, Rocca S. Casciano, Rome.

A school of palæography has been established at Florence, in connection with the Institute for Higher Studies. A three years' course has been arranged, resembling that of the École des Chartes.

In the *Nuovo Archivio Veneto*, XII. 1, XII. 2, Carlo Cipolla has an extensive general survey of the publications of 1894 on the medieval history of Italy. Those of both 1894 and 1895 are reviewed by E. von Ottenthal in the *Archivio Storico Italiano*, XVIII. 2.

The municipality of Forlì has resolved to celebrate in September,



1899, the memory of Paulus Diaconus, and invites all persons interested in medieval studies to assist in person or by writings.

Forzani and Co. of Rome publish a *Storia della Marina italiana della Caduta di Costantinopoli alla battaglia di Lepanto*, by C. Manfroni (pp. 534).

The Marquis de Sassenay's *Les derniers Jours de Murat* (Paris, Calmann Lévy, pp. 306) presents some new views of the manner by which Murat came to his death.

Under the editorial direction of Tommaso Casini and Vittorio Fiorini, a series of pamphlets or small monographs dealing with the history of Italy during the present century is being brought out under the general title of *Biblioteca Storica del Risorgimento Italiano*. The pieces appear monthly. The first to be issued was *Gli Atti del Congresso Cispadano di Reggio*, by Fiorini; the second, by Giosuè Carducci, *Le Vittime del Duca di Modena Francesco IV.* The publishers are the Società Editrice Dante Alighieri, Rome.

In the March number of the *Boletín de la Real Academia de la Historia* Dr. E. Hübner prints an important study, illustrated with photographs, of nine Iberian inscriptions recently discovered in Asturias, which cast much light on the early relations of the Phœnicians and Greeks to that district.

Mr. William Heinemann, of London, will shortly publish a translation of Dr. Wilken's book on the Spanish Protestants of the sixteenth century.

In the *Séances et Travaux de l'Académie des Sciences Morales et Politiques* for January is printed a valuable memoir of F. Perrens on Elizabeth of Valois, queen of Philip II.

#### GERMANY, AUSTRIA, SWITZERLAND.

The official report of the fourth "Versammlung deutscher Historiker," held at Innsbruck, September 11-14, 1896, has been published at Leipzig by Duncker and Humblot (pp. 73).

The latest addition to the number of local historical commissions is one for the province of Westphalia. The tasks immediately proposed to be undertaken are chiefly the following: the continuation of the *Westfälisches Urkundenbuch* from 1300 on; the publication of the acts and proceedings of the Westphalian Landtag; and the continuation of the *Codex Traditionum Westfalicarum*, of which four volumes have heretofore been published. A historical commission for Nassau has also been instituted.

Lamprecht's *Deutsche Geschichte* is the subject of an unusually extended review, by Georges Blondel, in the *Revue Historique* for May-June. H. Finke's sharp criticism of the fifth volume, in the *Historische Zeitschrift*, LXXVII. 3, has led to a controversy between him and the author, pursued in an article by Lamprecht in the *Deutsche Zeitschrift für Geschichtswissenschaft*, 1896, Monatsblatt 9, and in a pamphlet by Finke,



*Genetische und klerikale Geschichtsauffassung*, (Münster, Regensburg, pp. 38). The general controversy in Germany regarding economic history is reviewed in the *Revue Historique* (May-June) by Professor H. Pirenne. A further review of Lamprecht, by Schnürer, appears in the *Historisches Jahrbuch*, XVIII. 1.

In the *Neues Archiv*, XXII. 2, Dr. K. Hampe gives a detailed account of historical researches conducted among English manuscripts for the benefit of the *Monumenta—Reise nach England, 1895-1896*.

The Historical and Antiquarian Society of Basel have published the third volume of the *Urkundenbuch der Stadt Basel*, edited by R. Wackernagel and R. Thommen, and extending from 1291 to 1300 (Basel, R. Reich, pp. 487). They have nearly ready the second volume of *Acta Pontificum Helvetica, Quellen Schweizerischer Geschichte aus dem päpstlichen Archiv in Rom*, extending from 1268.

Dr. Erich Liesegang has published, in Gierke's series of *Untersuchungen zur deutschen Staats- und Rechtsgeschichte* (No. 52), an elaborate monograph in the field of municipal history: *Niederrheinisches Städtewesen vornehmlich im Mittelalter: Untersuchungen zur Verfassungsgeschichte der clevischen Städte* (Breslau, W. Köbner, pp. 758).

The Royal Scientific Society of Prague has published an important monograph by Dr. Ferdinand Padra, on the intellectual relations between Bohemia and other countries, down to the time of the Hussite wars.

In the official series of *Regesta Imperii XI. Die Urkunden Kaiser Sigmunds*, Vol. I., Dr. Wilhelm Altmann has brought out the second section (Innsbruck, Wagner, pp. 241-427).

The preliminaries of the war of 1474-1475 are treated elaborately in Dr. Hermann Diemar's *Die Entstehung des deutschen Reichskrieges gegen Herzog Karl den Kühnen von Burgund* (Marburg, pp. 101).

The Prussian Academy of Sciences has voted to Professor Harnack a grant of 2400 marks to write the history of the first two centuries of the academy's existence.

An interesting fragment of a first version of Frederick the Great's *Histoire de mon Temps* has been discovered by Dr. Arnheim and printed in *Forschungen zur brandenb.-preussischen Geschichte*, IX., 2.

The Prussian Ministry of War has published two volumes of *Militärische Schriften weiland Kaiser Wilhelm's des Grossen Majestät* (Berlin, Mittler).

Vol. II. of H. von Poschinger's *Fürst Bismarck und der Bundesrat* (Stuttgart, Deutsche Verlags-Anstalt, pp. 427), deals with the Bundesrat of the Zollverein (1868-1870) and with that of the German Empire from 1871 to 1873.

Noteworthy articles in periodicals: H. Brunner, *Die uneheliche Vaterschaft in den älteren germanischen Rechten* (*Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, XVII., Germ. Abth.); A. Luschin von Eben-

greuth, *Die Anfänge der Landstände* (Historische Zeitschrift, LXXVIII. 3); A. E. Schönbach, *Zur Geschichte der Predigt in Ober-Deutschland*, I. (Sitzungsberichte der k. Akademie der Wissenschaften zu Wien, ph.-hist. Cl., 1897); G. Witkowski, *Der historische Faust* (Deutsche Zeitschrift für Geschichtswissenschaft, n. s., I. 4); P. Bailleu, *Der Prinzregent und die Reform der deutschen Kriegsverfassung* (Historische Zeitschrift, LXXVIII. 3); O. Lorenz, *Kaiser Wilhelm der Erste, 1797-1897* (Deutsche Rundschau, March).

#### NETHERLANDS AND BELGIUM.

In the last portions of Vol IX. of the *Bijdragen voor de Vaderland-sche Geschiedenis*, Professor Blok has a study of *De Watergeuzen in Engeland*; Professor Bussemaker gives a list of the pieces relating to Dutch history in the *Coleccion de Documentos Inéditos para la Historia de España*.

Professor P. J. Blok has published (Hague, van Stockum, pp. 54) a report of his preliminary examination of the archives of Paris, made in pursuance of the general plan of the Dutch government for a search after materials for Dutch history contained in foreign repositories of documentary material—*Verslag dangaande een voorlopig Onderzoek te Parijs naar Archivalia belangrijk voor de Geschiedenis van Nederland*.

M. A. Delescluse reviews recent Belgian publications in history in the *Revue des Questions Historiques* for April.

A brilliant and important contribution to the medieval history of Flanders is M. Fr. Funck-Brentano's *Philippe le Bel en Flandre* (Paris, Champion, pp. 709).

#### NORTHERN AND EASTERN EUROPE.

M. E. Beauvois reviews recent Scandinavian historical publications in the *Revue des Questions Historiques* for April.

The tenth volume of Dr. Rydberg's collection of treaties, Part I., *Sverges och Norges Traktater med främmande Magter*, extends from 1815 to 1845 (Stockholm, Norstedt).

In the *Monumenta Hungariæ Historica* have been published the correspondence of Emerich Thököly, 1691-1692, and a second volume (1521-1566) of Hungarian translations of Turkish histories of the wars between the Turks and Hungary. In an allied series, an important and interesting body of documents, Latin and Hungarian, relating to the transactions (1559-1795) of thirteen of the Hungarian counties, has been printed under the title *Statuta et Articuli Municipiorum Hungariæ Cis-Danubianorum*, Vol. I.

#### AMERICA.

Mr. G. P. Humphrey, of Rochester, has begun the issue of a series of *American Colonial Tracts*, reprints, appearing monthly, of rare pamphlets

of the colonial period. The first two, issued for May and for June, are reprints of *A Discourse concerning the designed Establishment of a new Colony in the south of Carolina, in the most delightful Country in the Universe*, by Sir Robert Montgomery, Baronet, London, 1717, and *A Brief Account of the Establishment of the colony of Georgia under Gen. James Oglethorpe*, February 1, 1733. He has also issued, in a limited edition, *A Guide in the Wilderness, or the History of the first Settlements in the Western Counties of New York, with useful instructions to further Settlers in a series of letters addressed by Judge Cooper, of Cooperstown, to William Sampson, Barrister, of New York*, originally published in Dublin in 1810.

The "Henry Clay Publishing Company," of New York, have brought out a seven-volume of the *Works of Henry Clay*, comprising his life, correspondence and speeches, with an introduction by Speaker Reed and, as the seventh volume, a history of tariff legislation from 1812 to 1896 by the President of the United States. Presumably the other volumes are a reprint of Calvin Colton's various volumes, but the prospectus throws no light on such questions.

Dr. George A. Williams has issued a revised edition of his useful little manual entitled *Topics in American History* (Syracuse, C. W. Bardeen; pp. 180). The book is intended for use in schools, and the references are skilfully planned with a view to the needs of those who have access to but few books, as well as of those who are near libraries.

An important study by Professor Carlo Merkel is printed in the twentieth volume, fasc. 4, of the *Memorie del R. Istituto Lombardo di Scienze e Lettere*, under the title *L' Opuscolo "De Insulis nuper inventis" del messinese Nicolò Scillacio professore a Pavia confrontato colle altre Relazioni del secondo Viaggio di Cristoforo Colombo in America*.

We note, as of possible interest to students of early American history, a pamphlet of six pages printed by Cassone, of Casale, Italy, entitled *Sull' Identità del fiorentino Giovanni da Verrazzano con Giovanni Florin*, by L. Hugues.

Dr. Justin Winsor has reprinted, in a small number of copies, from the *Proceedings of the Massachusetts Historical Society*, an erudite paper on Baptista Agnese and American cartography in the sixteenth century.

The Burrows Brothers Co., of Cleveland, have secured for their edition of *The Jesuit Relations and Allied Documents* the original manuscript of Father Claude Dablon's relation of the Canadian mission for 1676-1677, recently offered for sale. It has never been completely printed. Vols. IV., V. and VI of the *Relations* have now been printed.

The Rev. Sanford H. Cobb, of Richfield Springs, N. Y., proposes to issue by subscription, as a volume of 300 pages, *The Story of the Palatines*. The episode in colonial history which forms the subject of this monograph, the history of the emigrants from the Palatinate of the Rhine, who came to this country in the early part of the eighteenth century, has not before been treated as a whole in any consecutive narrative.

Messrs. Ginn and Co. have published, in the "Athenaeum Press Series," Burke's *Speech on Conciliation with America*, edited, with an introduction and notes, by Professor Hammond Lamont, of Brown University.

The American University Dinner Club of Paris has reprinted in a little pamphlet (Paris, Brentano), an interesting speech on *Washington and the Mother Country*, delivered by Sir Edmund Monson, British ambassador to France, upon the occasion of his presiding at the dinner of the club on February 22, 1897. The address has also been printed in French in the *Revue des Deux Mondes* for March 15.

The series of "Women of Colonial and Revolutionary Times" is continued by a volume on *Martha Washington*, by Miss Anne Hollingsworth Wharton (Scribner, pp. 306).

The March number of the *Bulletin* of the New York Public Library presents a calendar of that portion of the Emmet Collection which relates to the Albany Congress of 1754. The editor also prints a journal of a voyage to Virginia in 1619, written by Ferdinando Yate, and a letter of the ensuing January from Governor Sir George Yeardley. The fourth or April number contains documents relating to the treason of Gen. Charles Lee in 1777, and an elaborate description of those comprised in the Emmet collection which relate to the Stamp Act Congress of 1765. The fifth number presents a similar description of those relating to the Continental Congress of 1774.

Professor J. P. Gordy's *History of Political Parties in the United States*, the first volume of which was noticed in our last issue, will hereafter be published by Henry Holt and Co.

The *Proceedings of the American Antiquarian Society* for the meeting of October 31, 1896, contain but one historical article: Twenty Unsettled Miles in the Northeast Boundary, by President Thomas C. Mendenhall, who, as a commissioner under the convention of July 22, 1892, took part in the last attempt to settle the controversy alluded to.

Two volumes of *Personal Recollections of the War of the Rebellion*, comprising the addresses delivered before the New York Commandery of the Military Order of the Loyal Legion of the United States, 1888 to 1891, will shortly be published by Messrs. G. P. Putnam's Sons. The first volume will be edited by Gen. James Grant Wilson and Dr. Titus M. Coan, the second volume by Mr. A. Noel Blakeman. Both volumes will be illustrated with portraits.

Mr. James Beale has printed in a hundred copies (Philadelphia, the author, pp. 29) a paper on *The Statements of Time on July 1, at Gettysburg, Pa., 1863; An Examination of the Official Reports*.

The Maine Historical Society celebrated its seventy-fifth anniversary on April 10. Addresses were made by the president, Hon. J. P. Baxter, by the recording secretary, Mr. H. W. Bryant, and by others. The seventy-fifth anniversary of the Rhode Island Historical Society was

celebrated on April 19, an address being given by the president, Hon. J. H. Stiness.

The manuscript of Gov. Bradford's *History of Plymouth Plantation* was on May 26 formally delivered to the Commonwealth of Massachusetts by the Hon. Thomas F. Bayard, to whom it had been entrusted for that purpose by its British custodians. Addresses were made upon the occasion by Mr. Bayard, by Senator Hoar and by the governor of the state.

Professor Edward Arber has made up a new book on the history of the Pilgrims by collecting into one volume a variety of passages from Bradford's History and other contemporary accounts, with some annotations. The book is published in America by Houghton, Mifflin and Co., under the title, *The Story of the Pilgrim Fathers, 1602-1624 A. D., as Told by Themselves, Their Friends, and Their Enemies.*

The New England Company in London has printed, in a limited edition, *Some Correspondence between the Governors and Treasurers of the New England Company in London and the Commissioners of the United Colonies in America, the Missionaries of the Company and others*, between the years 1657 and 1712. The letters are printed from the originals in the possession of the New England Company. One hundred copies have been secured for America by Dodd, Mead and Company. The letters printed are all that survive of the correspondence, from their representatives in America, of the New England Company. They have been deciphered by John W. Ford, Governor of the Company, who has added a preface, and a series of biographical and historical notes of persons mentioned in the letters. Among the letters here first printed are several of John Eliot, "Apostle to the North American Indians"—others from Increase Mather, Cotton Mather, Joseph Dudley, John Cotton, etc. At the end are added two journals of the Rev. Experience Mayhew, giving an account of his visits to the Pequot and Mohegan Indians, in 1713 and 1714.

No. 52 of the *Bibliographical Contributions by the Library of Harvard University* is an account of the librarians of Harvard College from 1667 to 1877 by Messrs. A. C. Potter and C. K. Bolton (pp. 47), which, beside its interest to Harvard men, makes also some interesting contributions to New England history.

Messrs. De Wolfe, Fiske and Co., of Boston, are about to publish a book entitled *Samuel Sewall and the World he Lived in*, by Mr. N. H. Chamberlain.

In the series of *Papers from the Historical Seminary of Brown University* the latest issue, No. VIII., is a History of the Tammany Societies of Rhode Island, by Mr. M. W. Jernegan (Providence, Preston and Rounds, pp. 39).

The Record Commissioners of the City of Providence issue as the twelfth volume of its *Early Records* a volume containing the records of the Providence town council from 1718 to 1732.

In the *Pennsylvania Magazine of History* for April, the articles marking the previous number are continued. Dr. Charles J. Stillé presents a general review of recent books on Pennsylvania history.

No. III., IV., V. of the fifteenth series of the *Johns Hopkins University Studies in Historical and Political Science* is a monograph on the Street Railway System of Philadelphia; its History and Present Condition, by Frederic W. Speirs, Ph.D., Professor of Economics and History in the Drexel Institute (pp. 123).

Miss Kate Mason Rowland, author of the well-known *Life of George Mason*, intends to issue in the autumn an equally elaborate book on the *Life of Charles Carroll of Carrollton*, with his letters and public papers. Subscriptions for the two volumes are received by Messrs. G. P. Putnam's Sons.

The *Virginia Magazine of History and Biography* for April contains some papers regarding charges made against Governor Spotswood in 1719, council proceedings under the same governor, some extracts from the records of Northampton County in the seventeenth century, abstracts of depositions of soldiers of the Revolution, papers of Judge Harry Innes when a commissioner for army supplies, a list of the Burgesses from 1766 to 1775, and installments of the usual continued articles.

A regrettable error was committed in what was said in our last issue concerning the intention of the Virginia Historical Society to print at full length the extant portions (1619-1624) of the records of the Virginia Company of London. It is the purpose of the society to print a text made correct by comparison with the original in the Library of Congress.

In No. 2, Part I. of the *Lower Norfolk County Virginia Antiquarian*, edited by Mr. Edward W. James, several of the matters which gave interest to No. 1 are continued. The most interesting new matter in the present installment is an autobiographical account of the early life of a lady who was born in Norfolk in 1750.

It is understood that Messrs. Yates Snowden and John P. Stratton, of Charleston, are each preparing bibliographies of South Carolina. The South Carolina Historical Society has its fifth volume in press. Its most important contents will be papers of Lord Shaftesbury relating to the early colonial period.

Professor Henry E. Chambers proposes to continue Gayarré's *History of Louisiana* from 1816 down to the present day. The publishers of his two volumes will be Messrs. F. F. Hansell and Brother, of New Orleans.

Memorial proceedings held on August 18, 1896, under the auspices of the Lexington Chapter of the Daughters of the American Revolution, have furnished the occasion for the latest issue (No. 12) of the Filson Club—*Bryan's Station*, edited by Col. Reuben T. Durrett (Louisville, John P. Morton and Co., pp. 277).

Appropos of the centennial celebration of Tennessee, Professor B. J.



Ramage has an article on Tennessee's place in history in the *Sewanee Review* for April.

Judge Oliver P. Temple, of Knoxville, is understood to have nearly ready for the press a history of East Tennessee during the Civil War.

The Vanderbilt Southern History Society, of Nashville, Tennessee, has published an interesting sketch, by Rev. E. E. Hoss, D.D., of *Elihu Embree, Abolitionist*, (1782-1820), editor of the *Emancipator* and a precursor of Lundy.

The last three publications of the Parkman Club, Nos. 11, 12, and 13, are *Père René Menard*, by Mr. Henry C. Campbell; *George Rogers Clark and his Illinois Campaign*, by Mr. D. B. Starkey; and *The Use of Maize by Wisconsin Indians*, by Mr. Gardner P. Strickney. Of these the first is the most important.

Mr. Edmond Mallet, of the General Land Office at Washington, sends us in a separate reprint from the *Bulletin des Recherches Historiques*, published at Lévis, Canada, his articles upon the Sieur de Vincennes, the founder of Indiana, in which he brings together all the accessible evidence which may contribute to a solution of the question respecting Vincennes' identity.

The University of Wisconsin has issued, as a part of its *Bulletin*, a doctoral thesis on *New Governments West of the Alleghanies before 1780*, by Mr. George Henry Alden (pp. 74). It is illustrated by several maps, and is announced as introductory to a study of the organization and admission of new states.

The *Proceedings* of the State Historical Society of Wisconsin at its forty-fourth annual meeting, December 10, 1896, exhibit the usual evidences of energy and success on the part of that society. The library is now estimated at 94,000 books and 90,000 pamphlets. Besides the various annual reports, the *Proceedings* include a suggestive paper by Professor F. J. Turner on the West as a field for historical study, and a useful list of laws, legislative documents and journals, journals of constitutional conventions, and newspaper files of the territory northwest of the river Ohio and the states of Ohio, Indiana, Illinois, Michigan and Wisconsin, published prior to 1851, in so far as they are to be found in public libraries within those states.

The ninth *Biennial Report* of the Minnesota Historical Society, recently transmitted to the legislature of the state, reports a library of 28,000 bound volumes and 32,000 pamphlets. Part II. of the eighth volume of the *Collections* of this society has recently been issued. The articles of most interest, on the whole, are those relating to the territorial period; that of Hon. Henry L. Moss on the Last Days of the Wisconsin Territory and the Early Days of the Minnesota Territory, that of Judge Charles E. F. Flandrau on the Lawyers and Courts of Minnesota prior to and during its territorial period, that of Professor Thomas F. Moran entitled How Minnesota became a State, and that of Governor Samuel J.



Albright on the First Organized Government of Dakota. The volume (pp. 270) also contains several papers relating to the sources of the Mississippi River.

The April number of the *Annals of Iowa* gives the first place to a geological article; it also contains a narrative of the battle of Pleasant Hill and an account of Rev. Asa Turner, a conspicuous pioneer.

On March 2, 1897, the Texas State Historical Association was organized at Austin. It professes, with respect to the history of Texas, the objects usual with historical societies, and starts out with an encouraging degree of public favor, and with more than a hundred members. The constitution presents some novel and ingenious provisions. Apart from ordinary members it creates a class of Fellows, limited in number to fifty, to which none are eligible but those who have published something historical; the chief officers and a majority of the Executive Council and Publication Committee are to be chosen from this class. The workings of this device, evidently adopted to guard against certain evils prevalent in our local historical societies, will be watched with interest. The new society has obviously a rich field to cultivate.

Don José Toribio Medina is about to bring out a volume, based on original investigations, and to some extent controverting received views, respecting Díaz de Solís, the discoverer of the Rio de la Plata.

Don Diego Barros Arana has in press the fourteenth volume of his monumental *Historia de Chile*.

Noteworthy articles in periodicals: H. HARRISSE, *La Cartographie verrazaniennne* (Revue de Géographie, November); H. de CHARENCEY, *L'Historien Sahagun et les Migrations mexicaines* (Muséon, 2d ser., I. 1); D. M. GILBERT, *Early History of the Lutheran Church in Georgia* (Lutheran Quarterly, April); D. ROSE, *Flora McDonald and the Scottish Highlanders in America* (American Historical Register, April); W. C. WEBSTER, *State Constitutions of the American Revolution* (Annals of the American Academy of Political Science, May); A. C. McLAUGHLIN, *James Wilson and the Constitution* (Political Science Quarterly, March); J. B. McMASTER, *Washington and the French Craze of '93* (Harper, April); F. N. THORPE, *The Hundred Years' Campaign* (Harper, May); P. S. P. CONNER, *The Castle of San Juan de Ulloa and the Topsy-Turvyists* (United Service, February); W. C. MITCHELL, *Greenbacks and the Cost of the Civil War* (Journal of Political Economy, March); H. PORTER, *Campaigning with Grant* (Century, June); J. M. SCHOFIELD, *The Withdrawal of the French from Mexico* (Century, May); *The Historical Writings of Francis Parkman* (Quarterly Review, April).

#### CORRIGENDUM.


Having examined the manuscript Cod. 768 of the Staatsarchiv at Vienna, mentioned in note 5 on page 412, Mr. Sullivan writes that it is not a copy of the *Defensor Pacis*, as stated in the catalogue, but of Ockam's *Octo Quaestiones*.



# INDEX

## AMERICAN HISTORICAL REVIEW

### VOL. II

 The names of contributors are printed in small capitals

- ABBOTT, WILBUR C., *Venerabilis Bædæ Historia Ecclesiastica*, by Charles Plummer (*Review*), 339.
- Académie des Inscriptions et Belles-Lettres, 50.
- Acadia: *Missing Links of a Lost Chapter in American History*, by an Acadian, (Edouard Richard), by GEORGE M. WRONG (*Review*), 159.
- Accademia Romana di Conferenze Storico-giuridiche, 56.
- Adams, Brooks, *Law of Civilization and Decay* (*Review*), 185.
- Adams, Father John, quoted, 438.
- Adams, George B., *The Growth of the French Nation*, by CHARLES H. HASKINS (*Review*), 335.
- Adams, Henry, *History of the United States*, 704.
- Adams, John, *Office-seeking during the Administration of John Adams*, by GAILLARD HUNT, 241.
- Adams, John Quincy, quoted, 258.
- Adjutant, 6.
- Adjutant-general, 6.
- Adriano, Captain Alfonso, *Della Disciplina Militare*, quoted, 4, 6, 7, 9.
- Aguillar, Lord of, 621.
- Ailli, Peter of, 599, 607.
- Albemarle, Duke of, 9, 658.
- Albert, in *Historisches Jahrbuch*, quoted, 409.
- Albert of Austria, 607.
- Alcudia, Duke of, 474.
- Alexander I., czar, 36.
- Alexander the Great, 2, 429.
- Alexander of St. Elpidio, *De Jurisdictione Imperii et Autoritate summi Pontificis*, 596.
- Alexis, czar, 435.
- All Souls' College, Oxford, 60.
- Allgemeine Geschichtsforschende Gesellschaft, 55.
- Almain, Jacques, *Expositio de Suprema potestate ecclesiastica et laica; De Auctoritate Ecclesiæ*, 608, 609.
- Almazán, 614, 619.
- Almeria, bishop of, 617.
- Althusius, 409.
- Alva, Duke of, 623.
- Alvarez, Fernan, 617.
- America, *Notes and News*, 208, 391, 586, 781.
- American Colonies, *British Convicts shipped to American Colonies*, by JAMES DAVIE BUTLER, 2.
- American Historical Association, twelfth annual meeting, 379; *Annual Report for 1895* (*Review*), 572.
- American Jewish Historical Society, *Publications* No. 5 (*Review*), 570.
- American Revolution, *The Province of Quebec and the American Revolution*, by Victor Coffin (*Review*), 360.
- American School of Historical Studies at Rome, 58.
- American State Papers*, 699.
- Ames, Herman V., *A Committee of the Massachusetts Legislature on Additional Amendments to the Federal Constitution*, (*Document*), 99.
- Amherst, Lord, 635, 636, 637, 638.

- Ancient History, *Notes and News*, 202, 381, 578, 771.
- Ancient History, Studies in*, by John Ferguson M'Lennan, by DR. D. G. BRINTON (*Review*), 506.
- Ancient Ideals*, by H. O. Taylor (*Review*), 752.
- Ancient Peoples, History of*, by Professor Willis Boughton, by G. S. G. (*Review*), 753.
- Anderson, Æneas, Narrative of the British Embassy to China in 1792-93, 632.
- ANDERSON, FRANK M., *A Critical Study of Nullification in South Carolina*, by David Franklin Houston (*Review*), 559.
- André, friar, 431.
- Andrés de Medina, 611, 612.
- Andrews, E. Benjamin, *The History of the Last Quarter-Century in the United States, 1870-1895*, by DR. ALBERT SHAW (*Review*), 561.
- ANDREWS, CHARLES M., *Histoire du Second Empire*, by Pierre de la Gorce, Tome III. (*Review*), 356; Connecticut Historical Society Collections, Vols. III., V. (*Review*), 186.
- Andrews, Charles M., *The Historical Development of Modern Europe*, Vol. I., by CHARLES H. LEVERMORE (*Review*), 354.
- Anglican Church in Maryland, 68, 69.
- Annals of Congress*, 257.
- Annual Register*, 1787, 227.
- Anselm, Abbot, Charter of, 688, 689.
- Anti-Federalists, 263, 264, 265, 267.
- Antiquary*, quoted, 689.
- Appeals from Colonial Courts to the King in Council*, by H. D. Hazeltine, 229.
- Applications for Admission to the National Senate and House of Representatives, 1861-1865, 291, 470.
- Archives, *The Vatican Archives*, by CHARLES H. HASKINS, 40.
- Archives Parlementaires*, 227.
- Archivio di Stato at Rome, 41.
- Archivio Segreto Vaticano, 42.
- Archivo general central en Alcalá, Estado*, 474.
- Arctic Discoveries, Handbook of*, by Gen. A. W. Greeley (*Review*), 378.
- Aristocratie (L') enchainée par le Peuple et par le Roi*, 226.
- Aristotle, *Politics*, 419, 425.
- Armada, 93, 94.
- Armada Española desde la Union de los Reinos de Castilla y de León*, by Cesario Fernandez Duro, Vol. I., by W. F. TILTON (*Review*), 344.
- Armada, *The Year after the Armada and other Historical Studies*, by Martin A. S. Hume, by E. P. CHEYNEY (*Review*), 516.
- Armstrong, E., *Lorenzo de' Medici and Florence in the Fifteenth Century*, by JAMES HARVEY ROBINSON (*Review*), 134.
- Arriola, Juan de, 621.
- Artaxerxes, 429.
- Art of War*, by Macchiavelli, 4.
- Arte Militare*, by Signor Mario Savorgnano, Count of Belgrade, quoted, 3.
- Ascelin, friar, 430, 431.
- Ascensius, 608.
- ASHLEY, W. J., *The Physiocrats*, by Henry Higgs (*Review*), 725.
- Ashurst, Thomas, 647.
- Asia, *Introduction à l'Histoire de l'Asie*, by Léon Cahun, by W. W. ROCKHILL, (*Review*), 128.
- Aubrey, 23.
- Auchmuty, Mr., 232.
- Augustine, Saint, *De Civitate Dei*, 60.
- Augustinian order, 607.
- Augustus III., Elector of Saxony and King of Poland, 77, 81.
- Aumâle, duke of, deceased, 769; his *Histoire des Princes de Condé pendant les XVI<sup>e</sup> et XVII<sup>e</sup> Siècles, Tome VII.*, by JAMES BRECK PERKINS (*Review*), 141.
- Aurora*, 258, 272, 277.
- Austin, Benjamin, jr., 100.
- Austrian Institute of Historical Studies, 52, 53, 54.
- Austrian Succession, War of, 77, 78.
- Authorship (The) of the Federalist*, by EDWARD G. BOURNE, 40; by PAUL L. FORD, 675; reply by Professor BOURNE, 682.
- Avery, Benjamin P., 643.
- Avora, Captain Gonzalo de, quoted, 614, 615.
- Avvertimenti in Fattioni di Guerra* by Bartolomeo Pellicciari, 9.
- Aylington, manor of, 215.
- Backhoff, Feodor Iskowitz, 435, quoted, 436.
- Bacon, Edwin M., *Supplement to the Acts and Resolves of Massachusetts*, 89.

- Bacon, quoted, 23.  
 Baden Historical Commission, 51.  
 Badius, Jodocus, 608.  
 Baena, Lord of, 621.  
 Baildon, William Paley, *Select Cases in Chancery, A. D. 1364 to 1471*, by MELVILLE M. BIGELOW (Review), 718.  
 Baisanger, Prince, 435.  
 Baker, Joshua, 461, 471.  
 BALDWIN, Hon. SIMEON E., *The Life of Roger Sherman*, by Lewis Henry Boutell (Review), 536.  
 Ballagh, *White Servitude in the Colony of Virginia*, 13, 14.  
 Ballot, 669, 670, 671, 672.  
 Baltimore, Lord, 649, 660.  
 Baluze, 45.  
 Barnwell, manor of, 219.  
 Bancroft, *History of the United States*, quoted, 12, 13, 14; *History of the Constitution of the United States*, 443, 444.  
 Bande, 3.  
 Banks, General N. P., 461, 466.  
 Barbadoes, 14, 15, 21.  
 Barnes, James, *Naval Actions of the War of 1812*, by A. T. MAHAN (Review), 574.  
 Barrio, Diego de, 613.  
 Barton, manor of, 218, 220.  
 Barry, Dr. Alfred, *The Ecclesiastical Expansion of England* (Review), 372.  
 Battaglione, 4.  
 Batu Khan, 430.  
 Baxter, E., 464, 470.  
 Bay Colony, *The*, by William Dummer Northend, by W. B. W. (Review), 534.  
 Bede, *Venerabilis Bedae Historia Ecclesiastica*, by Charles Plummer, M.A., by WILBUR C. ABBOTT (Review), 339.  
 Bedinger, Daniel, 247, 249, 252.  
 Bedryp, 219.  
*Beginners (The) of a Nation*, by Edward Eggleston, by HERBERT L. OSGOOD (Review), 528.  
 Bekinsaw, John, *De supremo et absoluto Regis Imperio*, 609.  
 Belcher, Governor Jonathan, 233, 235.  
 Belgian Commission Royale d' Histoire, 381.  
 Belgrade, Count of, Signor Mario Savorgnani, *Arte Militare*, quoted, 3.  
 Belknap, Jeremy, quoted, 693.  
 Belknap Papers, 693.  
 Bell, John, of Antermomy, 627.  
 Bene-, or boon-days, 217.  
 Benedict XI., registers of, 45.  
 Benedict XII., 596.  
 Benedictines of Monte Cassino, 45.  
 Benoit, quoted, 80.  
 Benerth, 221.  
 Beneryp, 221.  
 Benesed, 216.  
 Bennet, Richard, 31.  
 BENNETT, Professor CHARLES E., *A History of Rome to the Death of Caesar*, by W. W. How and H. D. Leigh (Review), 510.  
 Benson, Egbert, and the *Federalist*, 452, 454.  
 Berkeley, Lord, 656, 658, 661.  
 Berkeley, Sir William, Governor of Virginia, 660.  
 Bernardine of Escalanta, *Account of the Empire of China*, quoted, 437.  
 Bessarion, Cardinal, 608.  
 Bestushev-Riumin, Konstantin, deceased, 769.  
 Bethune, Rev. Dr., 70.  
 Beverley, 688.  
 Bibliographical, *Town Records of Great Britain*, by CHARLES GROSS, 191; *A List of Civil Lists, for American History*, 758; *The Transliteration of Russian Names*, by JEROME BARKER LANDFIELD, 766.  
 Bibliography, *Selected Bibliography of the Religious Denominations of the United States*, by George F. Bowerman (Review), 375.  
*Bibliotheca Americana Quadripartita*, by Rev. Thomas Bray, quoted, 64, 65, 74.  
*Bibliotheca Catechetica*, by Rev. Thomas Bray, 68.  
*Bibliotheca Historica Medii Aevi*, by August Potthast, by DANA CARLETON MUNRO (Review), 710.  
*Bibliotheca Leonina*, 43.  
*Bibliotheca Parochialis*, by Dr. Thomas Bray, 67.  
 Biel, Gabriel, 607.  
 BIGELOW, MELVILLE M., *Select Cases in Chancery, A. D. 1364 to 1471*, by William Paley Baildon (Review), 718.  
 Bigelow, Poultney, *History of the German Struggle for Liberty*, by DR. FERDINAND SCHWILL (Review), 519.  
 Bill of Rights, 99.

- Bingham, John A., quoted, 290.  
 Bishop, Dr. Courtland F., *History of Elections in the American Colonies*, 665.  
 Bishop of London, 69, 71.  
 Bishop of Rome, power of, 106.  
 Black Prince, 230.  
 Blackstone, Sir Wm., 24, 28.  
 Blagdon, Captain, 28.  
 Blaine, *Biography of James G. Blaine*, by Gail Hamilton [Abigail Dodge], by ALBERT BUSHNELL HART (*Review*), 181.  
 Blair, J. B., admitted to Congress, 282.  
 Bliss, *Papal Letters*, 55.  
 Blois, clergy of, 226.  
 Blok, Professor P. J., *Geschiedenis van het Nederlandsche Volk*, by WM. ELLIOT GRIFFIS (*Review*), 122.  
 Board of Rites, 441.  
 Board of Trade, 232.  
 Bodleian Library, 472.  
 Boileau, 277.  
*Boletín de la Real Academia de la Historia*, 615.  
 Bollan, William, 233, 234, 235, 236, 237.  
 Bologna, bishop of, 604.  
 Bonagratia, 426, 609.  
 Boniface VIII., 618.  
 Boniface IX., 44.  
 Bonzano, M. F., 466, 471.  
 Boon-, or bene-services, 221.  
 Boon-ploughings, 215.  
 Boons, harvest-boons, 217; extra boon-services, 219.  
*Boon-Services on the Estates of Ramsey Abbey*, by N. NEILSON, 213.  
 Borghese collections, 43.  
 Boston Athenæum, 70.  
*Boston Gazette*, quoted, 30.  
 Botany Bay, 12.  
 BOTSFORD, GEORGE W., *Greek Oligarchies*, by Leonard Whibley (*Review*) 369; *A Handbook of Greek Constitutional History*, by A. H. J. Greenidge (*Review*), 567.  
 Boucher, Rev. Jonathan, quoted, 27.  
 Boudinot, *The Life, Public Services, Addresses and Letters of Elias Boudinot*, by J. J. Boudinot, by WILLIAM NELSON (*Review*), 545.  
 Boughton, Professor Willis, *History of Ancient Peoples*, by G. S. G. (*Review*), 753.  
 Bourgogne, nobility of, 226.  
 Bourinot, J. G., *The Story of Canada*, by Professor VICTOR COFFIN (*Review*), 565.  
 BOURNE, EDWARD GAYLORD, *The Authorship of the Federalist* (articles), 460-682; *Historical Briefs*, by James Schouler (*Review*), 321; *The Autobiographies of Edward Gibbon*, by John Murray (*Review*), 726; *Private letters of Edward Gibbon (1753-1794)* by Rowland E. Prothero (*Review*), 727.  
 Bourne, Professor E. G., 381, 675.  
 BOURNE, HENRY E., *Napoléon et Alexandre Ier*, by Albert Vandal, Tome III., (*Review*), 351.  
 Boutell, Lewis Henry, *The Life of Roger Sherman*, by Hon. SIMEON E. BALDWIN (*Review*), 536.  
 Bowdoin, Governor James, 693, 694.  
 Bowerman, George F., *Selected Bibliography of the Religious Denominations of the United States* (*Review*), 375.  
 BOYD, CARL EVANS, Introduction to *The Clarksville Conventions (Documents)*, 691.  
 Bradford, Governor William, Manuscript of *History of Plymouth Plantation*, 783.  
 Brandenburg, Elector of, 80.  
 Brannan, Martha, 31.  
 Bray (Rev. Thomas) and his *American Libraries*, by BERNARD C. STEINER, 59.  
 Bray, Rev. Thomas, *Bibliotheca Americana Quadripartita* (unpublished), quoted, 64, 74; *Bibliotheca Catechetica, or the Country Curates' Library*, 68; *Bibliotheca Parochialis*, 66; *An Essay towards promoting all Necessary and Useful Knowledge*, quoted, 62, 63; *Lectures upon the Church Catechism*, 61; *Primordia Bibliothecaria*, quoted, 69; *Proposals for the Encouragement and Promoting of Religion and Learning in the Foreign Plantations*, 61, 62; *Several Circular Letters to the Clergy of Maryland*, 68.  
 Bray, Rev. Thomas, *Public Spirit illustrated in the Life and Designs of the Rev. Thomas Bray, D. D.*, quoted, 69.  
 Bray's (Dr.) Associates for founding clerical libraries and supporting negro schools, 60.  
 BREASTED, JAMES HENRY, *A History of Egypt*, by W. M. Flinders Petrie (*Review*), 324.  
 Brent, Giles, 660.  
 Bribery, 666.  
 Bridges, G. W., 285, 291, 293.

- Bright, Professor William, quoted, 106.
- Bright, William, *The Roman See in the Early Church and other Studies in Church History*, by A. C. MCGIFFERT (Review), 106.
- BRINTON, D. G., *The History of Mankind*, by Professor Friedrich Ratzel (Review), 322; *Studies in Ancient History*, by John Ferguson M' Lennan (Review), 506.
- Brom, editor, *Bullarium Trajectense*, 56.
- Brothers of Common Life, 601.
- Brown, Alice, *Mercy Warren* (Review), 573.
- Brown, John, 24, 31.
- Brown, John, among the Quakers and other Sketches, by Irving B. Richman (Review), 575.
- Brown, W. G., 281, 292.
- BRUCE, PHILIP ALEXANDER, *Calendar of State Papers, Colonial Series, America and West Indies, 1677-1681*, by W. Noel Sainsbury and Hon. J. W. Fortescue (Review), 530.
- Bruce, *Economic History of Virginia*, quoted, 14, 15, 16.
- Brückner, Professor Alexander, deceased, 577.
- "Brutus," 675.
- Bryce, Rt. Hon. James, 667.
- Brymner, Dr. Douglas, *Report on Canadian Archives for 1896* (Review), 756.
- Buckle, *History of Civilization*, 227.
- Budden, Captain, 32.
- Buddhism, Its History and Literature*, by T. W. Rhys Davids, by CHARLES R. LANMAN (Review), 330.
- Bulis, 429.
- Bullarium Trajectense*, edited by Brom, 56.
- Bulletin of the Bureau of Rolls and Library of the Department of State* (Review), 188, 397-400.
- Bulls, papal, 46, 426, 593, 594, 595.
- BURGESS, JOHN W., *Political Science and History*, 401.
- Burgess, John W., *The Middle Period*, by CHARLES H. LEVERMORE (Review), 746.
- Burgh, *Political Disquisitions*, 454, 686.
- Burghley (Lord) on the Spanish Invasion (Documents), 93.
- Burgo, Andrés del, 620.
- Burgrave, Thomas, 60.
- Burnet, *Notes on the Early Settlement of Northwestern Territory*, 691.
- Burrall, Jonathan, 246.
- Burton, Sir Charles, 25.
- BUTLER, JAMES DAVIE, *British Convicts shipped to American Colonies*, 12.
- Byington, Ezra Hoyt, *The Puritan in England and in New England*, by WILLIAM B. WEEDEN (Review), 532.
- Byllinge, Edward, 656.
- Byrd, Colonel Otway, 251, 252, 253.
- Cabot, George, quoted, 258.
- Cabot, John, 647.
- Cabra, Count of, 621.
- Cahiers (The) of 1789, as an Evidence of a Compromise Spirit*, by C. H. LINCOLN, 225.
- Cahun, Léon, *Introduction à l'Histoire de l'Asie*, by W. W. ROCKHILL (Review), 128.
- Calendars of State Papers, Domestic, 13, 14.
- Caller, James, 704.
- Callisthenes, 429.
- Canadian Archives, Report on*, for 1896, by Dr. Douglas Brymner (Review), 756.
- Canada, The Story of*, by J. G. Bourinot, by Professor VICTOR COFFIN (Review), 565.
- Canisius, Henry, 609.
- Cannan, Edwin, *The History of Local Rates in England*, by HENRY B. GARDNER (Review), 139.
- Canning, Elizabeth, 32.
- Captivity*, by Susanna Johnson, 22.
- Carlile, J. S., 281, 291, 292.
- Carlyle, *Past and Present*, 688.
- Carolina, Charter, 651.
- Carolina Proprietors, 660.
- Carondelet on the Defence of Louisiana (Documents)*, 474.
- Carrington, General Edward, 252; letters from, quoted, 253, 254.
- Carteret, Sir George, 656, 661.
- Cartularium monasterii de Rameseia*, 213.
- Cartwright, J. J., *Memoirs of Sir John Reresby*, 472.
- Case (The) of Frost vs. Leighton*, by ANDREW MCFARLAND DAVIS, 229.
- Castro, archdeacon of, 625.
- Cathcart, Colonel, 631.
- Catharine II., czarina, 77, 80-84, 87, 89, 91, 92.



- Catholics, 84, 93.  
 Catholic Church, 38, 84.  
 Caucus, 262, 267, 269, 270, 274, 278.  
 Celtic Churches, 107.  
*Censuarii*, 214, 215, 220, 221.  
 Census, 47.  
 Cesena, Michael of, 426, 596, 597, 605, 606, 607, 609.  
 Chalmers, *Opinions of*, 238.  
 CHAMBERLAIN, D. H., *Constitutional History of the United States*, by George Ticknor Curtis (*Review*), 549.  
 Chancery, *Select Cases in Chancery, A. D. 1364-1471*, by William Paley Baildon, by MELVILLE M. BIGELOW (*Review*), 718.  
 Channing, Edward, *The United States of America, 1765-1865*, by A. C. McLAUGHLIN (*Review*), 161.  
 Charles I., 230.  
 Charles II., 14, 17, 665.  
 Charles V., Emperor, 601, 623.  
 Charles IX., king of France, 602, 609.  
 Charles XI., king of Sweden, 36.  
 Charles XII., king of Sweden, 34, 36.  
 Charles, Prince, *Pickle the Spy, or the Incognito of Prince Charles*, by Andrew Lang (*Review*), 570.  
 Charles the Great, 644.  
 Charter of Richard I. to Colchester, quoted, 689.  
 Charters, *The First Charter to St. Edmund's Bury, Suffolk (Documents)*, 688.  
 Charters, Massachusetts, 229, 230.  
 Charters, proprietary, 659.  
 Charterhouse, monks of, 601.  
 Chaumont, Mons. de, 427.  
 Chester, Count Palatine of, 646.  
 CHEYNEY, PROFESSOR E. P., *The Year after the Armada and other Historical Studies*, by Martin A. S. Hume (*Review*), 516.  
 Chien-lung, 633.  
 China, *A Cycle of Cathay, or China South and North, with Personal Reminiscences*, by W. A. P. Martin (*Review*), 521.  
 China, *Diplomatic Missions to the Court of China, The Kotow Question*, by WILLIAM WOODVILLE ROCKHILL, 427, 627.  
 Chinese Foreign Office, 642, 643.  
 Chingay, Prothonotary, 431.  
 Choiseul, 84.  
 Christian IV. of Denmark, 36.  
*Christian Doctrines, History of*, by George Park Fisher, by EDWIN K. MITCHELL (*Review*), 332.  
 CHRISTIE, F. A., *Jesus Christ Before His Ministry*, by Edmond Stapfer, translated, (*Review*) 754; *Jesus Christ During His Ministry*, do., 754.  
 Church History, *The Roman See in the Early Church and Other Studies in Church History*, by William Bright, by A. C. MCGIFFERT (*Review*), 106.  
*Church Quarterly Review*, 906.  
 Civil Lists, *A List of Civil Lists, for American History (Bibliographical)*, 758.  
 Civilization, *History of*, by Buckle, 227.  
 Claiborne, Governor, 699.  
 Clapp, Roger, 20.  
 Clark MSS., 474.  
 Clark, George Rogers, 474, 691.  
 Clark, Samuel, 14.  
 Clarkson, Matthew, 246.  
*Clarksville Conventions, The*, 1785, 1787 (*Documents*), 691.  
 Clement V., 45.  
 Clement VI., 46, 414, 415, 416, 426, 593, 597, 606.  
 Clements, A. J., 284, 285.  
 Clinton, DeWitt, 276.  
 Clinton, George, 264.  
 Cobden, *Letters of Richard Cobden to Charles Sumner, 1862-1865 (Documents)*, 306.  
 Cockenoe, *John Eliot's First Indian Teacher and Interpreter, Cockenoe-de-Long-Island*, by W. W. Tooker (*Review*), 376.  
 COFFIN, PROFESSOR VICTOR, *The Story of Canada*, by J. G. Bourinot (*Review*), 565.  
 Coffin, Professor Victor, *The Province of Quebec and the Early American Revolution (Review)*, 360.  
 Coke, *Fourth Institute*, quoted, 645.  
 Colchester, 689.  
 Coleraine, *Petition from Coleraine to the Governor and Council (Document)*, 696.  
*Collectorio*, 46.  
 Collot, General, 475.  
*Colonel (The) and His Command*, by JULIAN CORBETT, 1.  
*Colonello*, 2, 4, 8.  
*Colonellato*, 9.  
*Colonial Society of Massachusetts, Transactions of (Review)*, 374.

- Colonial Tavern, The*, by Edward Field, by EDWARD G. PORTER (*Review*), 732.
- Columella, 10.
- Columbus, 57.
- Committee (*A*) of the Massachusetts Legislature on Additional Amendments to the Federal Constitution, 1790, 99.
- Committee of Trade, 23.
- Common Law, *A Preliminary Treatise on Evidence at the Common Law*, Part I., by James Bradley Thayer, by CHARLES L. WELLS (*Review*), 341.
- Common Pleas, Court of, 231, 233, 236, 239, 240.
- Compagnie Colonelle*, 4.
- Compton, Henry, Bishop of London, 61, 69.
- Concessions and Agreements, 661.
- Condé, *Histoire des Princes de Condé pendant les XVI.<sup>e</sup> et XVII.<sup>e</sup> Siècles*, by M. le Duc d'Aumâle, Tome VII., by JAMES BRECK PERKINS (*Review*), 141.
- Confederacy, 287, 446.
- Confederate army, 281.
- Confederate Constitution, 284.
- Confederate government, 469.
- Confutatio Primatus papæ*, by Matthias Döring, 559.
- Congregacion Católica, 625.
- Congress, Confederate, 284.
- Congress, National, 229, 281.
- Congress, *Representation in the National Congress from the Seceding States, 1861-65*, by Professor FREDERICK W. MOORE, 279, 491.
- Congressional Globe*, 461.
- Connecticut, *A List of Civil Lists (Bibliographical)*, 762.
- Connecticut, Constitution of 1818, 668.
- Connecticut Historical Society, *Collections*, Vols. III., V. (*Review*), 186.
- Conrad of Megenberg, *Æconomica*, 597, 607.
- Consistory, archives of, 41, 42.
- Constable, 6.
- Constitution, Federal, 100, 264, 681.
- Constitution, Federal, *A Committee of the Massachusetts Legislature on Additional Amendments to the Federal Constitution*, 1790, 99; *The Contest over the Ratification of the Federal Constitution in the State of Massachusetts*, by Samuel Bannister Harding, by O. G. LIBBY (*Review*), 547.
- Constitution, 229, 247, 264, 453.
- Constitution, Confederate, 284.
- Constitutionalists, 263.
- Conti, Prince of, 79.
- Convention, Federal, 681.
- Conventions, *Nominating Conventions in Pennsylvania*, by JOSEPH S. WALTON, 262.
- Convicts, *British convicts shipped to American colonies*, by JAMES DAVIE BUTLER, 12.
- COOLIDGE, ARCHIBALD CARY, *A Plea for the Study of the History of Northern Europe*, 34.
- CORBETT, J., *The Colonel and His Command*, 1.
- Córdoba, bishop of, 621.
- Córdoba, Elvira de, 612.
- Córdoba, Fernando de, 612.
- Córdoba, the Inquisition of, 611-626.
- Cordova, Gonsalvo de, 3.
- Corona*, 2.
- Coroner, *Select Cases from the Coroners' Rolls*, edited by Charles Gross, by GEORGE E. HOWARD (*Review*), 125.
- Cosmographie* by Peter Heylyn, quoted, 20.
- Cossacks, 38.
- Cotarii*, 214.
- Cottars, 221.
- Cottman, Thomas, 461, 471.
- Cotton, Rev. John, letter to Cromwell, quoted, 13, 21.
- Council of Philadelphia, 23.
- Council of Proprietors, 657.
- Council of State, 13.
- Council, Vatican, 106.
- Courtenay, Hon. William A., *Proceedings at the Unveiling of the Battle Monument at Spartanburg* (*Review*), 573.
- Cox, Catharine, 31.
- Cox, Homersham, deceased, 769.
- Coxe, Daniel, 657.
- Coxe, Tench, 256, 258, 260; letters from, quoted, 259, 260, 261.
- Cracow Academy of Sciences, 54, Library of, 55; University, 54.
- Crawford, William H., 278.
- Creighton, Bishop Mandell, *Queen Elizabeth*, by W. F. TILTON (*Review*), 346.
- Cressy, 230.
- Croftmanni*, 214.
- Croftmen, 221.
- Cromwell, 15, 19.
- Cross, John, 31.
- Cross *vs.* Harrison, 288.

- Cuba, The Island of*, by Lieutenant A. S. Rowan and Professor M. M. Ramsey (Review), 576.
- Cuesta, Padre Fray Francisco de, 621.
- Culpeper, Lord, 15.
- CURRIER, C. F. A., *Histoire de la Troisième République*, by E. Zevort (Review), 372, 754.
- Curtis, George Ticknor, *Constitutional History of the United States*, Vol. II., by Hon. D. H. CHAMBERLAIN (Review), 549.
- Curtius, Professor Ernst, deceased, 201; library of, 381.
- Cusa, Nicolaus von, *De Concordantia Catholica*, 599.
- Cushing, Col., 700.
- Cushing, Harry A., *History of the Transition from Provincial to Commonwealth Government in Massachusetts*, by ANDREW MCFARLAND DAVIS (Review), 740.
- Custis, Parke, 27.
- Customaries, 216.
- Custodia*, 689.
- Cutler, R. K., 467, 470.
- Czernichef, Count, 88.
- Dale, Governor, quoted, 16, 17.
- Damasus I., 41.
- Danby, Earl of, 472.
- Dane, Nathan, 100.
- Dante, *De Monarchia*, 421, 610.
- Darius, 429.
- Dataria Apostolica, archives of, 41.
- Davids, T. W. Rhys, *Buddhism, Its History and Literature*, by CHARLES R. LANMAN (Review), 330.
- DAVIS, ANDREW MCFARLAND, *The Case of Frost vs. Leighton*, 229; *History of the Transition from Provincial to Commonwealth Government in Massachusetts*, by Harry A. Cushing (Review), 740.
- Davis, Henry Winter, 463.
- Dawes, Henry L., 280, 282, 288, 464.
- Dawson, Henry B., quoted, 448, 460, 684.
- De Auctoritate Ecclesie*, by Jacques Almain, 600, 609.
- Decanal or colonial libraries, 63.
- De Causa immediata ecclesiastica Potestatis*, by Peter Palude, 595.
- De civili Dominio*, by Wiclif, 599.
- De Civitate Dei*, by Saint Augustine, 60.
- De Concordantia Catholica*, by Nicolaus von Cusa, 599.
- De Electione Caroli IV.*, by Ockam, 606, 607.
- Defensor Pacis*, by Marsiglio, 411, 593, 594, 595, 602, 603.
- De Juribus Regni et Imperii*, by Leopold of Bebenburg, 597.
- De Jurisdictione Imperii et Autoritate summi Pontificis*, by Alexander of St. Elpidio, 596.
- De la Gorce, Pierre, *Histoire du Second Empire*, Tome III., by CHARLES M. ANDREWS (Review), 356.
- Delaware, constitution, 666; *A List of Civil Lists (Bibliographical)*, 764.
- Della Disciplina Militare*, by Captain Alfonso Adriano, quoted, 4.
- Democracy and Liberty*, by William E. H. Lecky, by A. L. LOWELL, (Review), 153.
- Democrats, Patent, 276.
- Democrat-Republicans, 275.
- De Modis uniendi ac reformandi Ecclesiam*, by Dietrich von Niem, 599.
- De Monarchia*, by Dante, 420, 610.
- Denifle, *Die Universitäten des Mittelalters*, 46, 57.
- Dennie, John, *Rome of To-Day and Yesterday: the Pagan City* (Review), 369.
- Department of State, Library of, 294; *Bulletin* of, 188, 397-400.
- De supremo et absoluto Regis Imperio*, by John Bekinsaw, 609.
- De Translatione Imperii*, by Landulf of Colonna, 416.
- De Translatione Imperii*, by Marsiglio, 413, 416.
- Deza, Pedro Juarez de, 614, 615, 620, 621.
- Dialogus*, by Ockam, 417, 418, 598, 607.
- Dickinson, *The Writings of John Dickinson*, Vol. I., by Paul L. Ford, by WILLIAM NELSON (Review), 362.
- Diplomatic Missions to the Court of China, The Kotow Question*, by WILLIAM WOODVILLE ROCKHILL, 427, 627.
- Dissenters, 44.
- Divine Right, *The Theory of the Divine Right of Kings*, by J. Neville Figgis, by W. A. DUNNING (Review), 371.
- Documentary History of Education in Upper Canada*, by J. G. Hodgins (Review), 378.
- Documents, Carondelet on the Defence of*

- of Louisiana, 1794, 474; *Clarksville Conventions*, 1785, 1787, 691; *A Committee of the Massachusetts Legislature on Additional Amendments to the Federal Constitution*, 1790, 99; *Emigration from Yorkshire to West Jersey*, 1677, 472; *The First Charter to St. Edmund's Bury, Suffolk*, 688; *Letters of Richard Cobden to Charles Sumner*, 1862-1865, 306; *Letters of John Marshall when Envoy to France*, 1797, 1798, 294; *Lord Burghley on the Spanish Invasion*, 1583, 93; *McKean to Washington*, 1789, 98; *Shays' Rebellion*, 693; *West Florida and its Attempt on Mobile*, 1810-1811, 699.
- Documents inédits sur les Rapports du Saint-Siège avec les Slaves*, by Pierling, 56.
- Dodge, Abigail, see Gail Hamilton.
- DODGE, COL. THEODORE AYRAULT, *Mosby's Rangers*, by James J. Williamson (*Review*), 367.
- Döring, Matthias, *Confutatio Primatus papæ*, 599.
- Doris*, ship, 635.
- Dorpat, University of, 56.
- Dove*, 22.
- Drake, 94.
- Draper Collection, 474, 691.
- Drogheda, 15.
- Duane, Wm., 258, 275.
- Du Bois, W. E. B., *The Suppression of the African Slave Trade to the United States of America, 1638-1870*, by STEPHEN B. WEEKS (*Review*), 555.
- Duchesne, Abbé, 50.
- Duell, William, 28.
- Dumouriez, 84.
- Dunbar, David, 231.
- DUNNING, Professor WILLIAM A., *Ireland, 1494-1868*, by William O'Connor Morris (*Review*), 515; *The Theory of the Divine Right of Kings*, by J. N. Figgis (*Review*), 371.
- Durant, T. J., 461, 467.
- Durham, bishop of, 645, 651.
- Duro, Cesario Fernandez, *Armada española desde la Union de los Reinos de Castilla y de Leon*, Vol. I., by W. F. TILTON (*Review*), 344.
- Durrett, Col. Reuben T., 691.
- Dyer, Mary, of Rhode Island*, by Judge Horatio Rogers (*Review*), 376.
- Dyodona, John of, 598.
- Eagle*, galley, 24.
- Early Church History, *Notes and News*, 382, 578, 771.
- Ecclesiastical Expansion (The) of England*, by Dr. Alfred Barry (*Review*), 372.
- Eckenstein, Lina, *Woman under Monasticism*, by J. M. VINCENT (*Review*), 120.
- Economic History of Virginia*, by Bruce, quoted, 14, 16.
- École des Chartes, des Hautes Études, 50.
- Eddy, Samuel, 697.
- Edes, Henry H., editor, *Annals of King's Chapel*, by Rev. Henry W. Foote (*Review*), 574.
- Edersheim, Rev. Alfred, *History of the Jewish Nation after the Destruction of Jerusalem under Titus*, by G. R. F. (*Review*), 184.
- Eggleston, Edward, *The Beginners of a Nation*, by Professor HERBERT L. OSGOOD (*Review*), 528.
- Egypt, *History of Egypt*, by W. M. Flinders Petrie, by JAMES HENRY BREASTED (*Review*), 324.
- Ehrle, Father, 47, 57.
- Ehses, Dr., 52.
- Ekkehardt, 607.
- Elector, qualifications, 669.
- Elective franchise, progress of, 674.
- Eliot, Hugh, 647.
- Eliot's, John, First Indian Teacher and Interpreter*, by W. W. Tooker (*Review*), 376.
- Elizabeth, Queen*, by Mandell Creighton, by W. F. TILTON (*Review*), 346, 93.
- Elizabeth, czarina, 36.
- Ellis, Henry, *Journal of the Proceedings of Lord Anherst's Embassy to China*, 632, 635.
- Emery, Noah, 231, 237, 238.
- Emigration from Yorkshire to West Jersey, 1677 (Documents)*, 472.
- Emancipation Proclamation, 461.
- EMERTON, E., *A History of Auricular Confession and Indulgences in the Latin Church*, by Henry Charles Lea (*Review*), 113.
- Emmet, Dr. Thomas Addis, autograph collections of, 394, 782.
- England, *Lord Burghley on the Spanish Invasion, 1588 (Documents)*, 93; *History of Local Rates in England*, by HENRY B. GARDNER (*Review*), 139;

- The Union of England and Scotland*, by James Mackinnon (*Review*), 143.
- English Historical Reprints*, by W. D. Johnston (*Review*), 370.
- England, Church of, 70, 106.
- Encyclopedists, French, 3.
- English Public Record Office, 55.
- Epistola Nuncupatoria*, by Albert Pighio, quoted, 602.
- Epistola ad Fratres Minores*, by Ockam, 416.
- ERNST, C. W., *History of the Postoffice Packet Service between the Years 1793-1815*, by Arthur H. Norway (*Review*), 151.
- Esprit des Lois*, 676, 683.
- Essay on Plantations*, quoted, 23.
- Essay (An) Towards Promoting all Necessary and Useful Knowledge*, by Rev. Thomas Bray, quoted, 62, 63.
- Eugene IV., registers of, 52.
- Europe in the Middle Age*, by Oliver J. Thatcher and Ferdinand Schwill, by Professor CHARLES H. HASKINS (*Review*), 511.
- Europe, *The Historical Development of Modern Europe*, by Charles M. Andrews, Vol. I., by CHARLES H. LEVERMORE (*Review*), 354.
- Evolution of the American Voter*, by JAMES SCHOUER, 665.
- Executive Journal of the Senate*, 247, 256.
- Expositio de suprema Potestate ecclesiastica et laica*, by Jacques Almain, 600, 608.
- "Expositor (The)" in *New York Journal*, quoted, 681.
- Farnese, Alexander, duke of Parma, 7.
- Farrand, Max, *The Legislation of Congress for the Government of the Organized Territories of the United States* (*Review*), 189.
- Federal Republicans, 274.
- Federal Union, 667.
- Federalist, *The Authorship of the Federalist*, by EDWARD GAYLORD BOURNE, 460; by PAUL LEICESTER FORD, 675; reply by Professor BOURNE, 682.
- Federalists, 242, 243, 254, 263, 265, 267, 268.
- Felons, imported, 18, 21, 30, see Convicts.
- Fenwick, John, 656.
- Ferdinand, King of Aragon, 4, 611, 615, 618.
- Ferguson, Dr., 12.
- Ferrara, bishop of, 604.
- Ferretti, Captain Francesco, *Osservanza Militare*, 5, 6, 7.
- Ferrière, Hector de la, deceased, 201.
- Field, A. P., 461, 466, 471.
- Field, Edward, *The Colonial Tavern*, by EDWARD G. PORTER, (*Review*), 732.
- Figgis, J. Neville, *The Theory of the Divine Right of Kings*, by W. A. DUNNING (*Review*), 371.
- Finckenstein to Frederick, quoted, 83.
- Findley, William, 276, 277.
- Firmarius*, 217, 221.
- Firth, C. H., *Introduction to Emigration from Yorkshire to West Jersey, 1677 (Documents)*, 472.
- Fishback, W. M., 464, 470.
- Fisher, George Park, *History of Christian Doctrine*, by EDWIN KNOX MITCHELL (*Review*), 332.
- Fisher, Sydney George, *Pennsylvania, Colony and Commonwealth*, by WILLIAM R. SHEPHERD (*Review*), 534.
- Flanders, B. F., 288, 293, 466, 471.
- Flanders, Henry, see Mitchell, James T.
- Flint, Mrs. Martha Bockée, *Early Long Island: a Colonial Study* (*Review*), 375.
- Florence, Council of, 35, 37.
- Florence, *Lorenzo de' Medici, and Florence in the Fifteenth Century*, by E. ARMSTRONG, by JAMES HARVEY ROBINSON (*Review*), 134.
- Folch, Governor, 699, 700.
- Follett, Mary P., *The Speaker of the House of Representatives*, by THEODORE ROOSEVELT (*Review*), 176.
- Foote, Rev. Henry W., *Annals of King's Chapel*, Vol. II, edited by Henry H. Edes (*Review*), 574.
- FORD, PAUL LEICESTER, *The Authorship of the Federalist*, 675; *The Statutes at Large of Pennsylvania from 1682 to 1801*, by James T. Mitchell and Henry Flanders, Vols. II., III. (*Review*), 734; *The Literary History of the American Revolution, 1763-1783*, by Professor Moses Coit Tyler, Vol. I. (*Review*), 738.
- Ford, Paul Leicester, *The True George Washington*, by HON. WILLIAM WIRT HENRY (*Review*), 539; *The Writings of Dickinson*, Vol. I., by WILLIAM NELSON (*Review*), 362; *The Writings*

- of Thomas Jefferson, Vol. VIII. (*Review*), 755.
- Forrest, Confederate General, 290.
- Fortescue, Hon. J. W. See Sainsbury, W. N.
- FOSTER, FRANK HUGH, *Lectures on the Council of Trent*, by James Anthony Froude (*Review*), 135.
- Fowler, Samuel, 100.
- Fraknoi, Monsignor, editor *Monumenta Vaticana Hungaria*, 54.
- France, *Histoire du Second Empire*, by Pierre de la Gorce, Tome III., by CHARLES M. ANDREWS (*Review*), 356; *Histoire de la Troisième République*, by E. Zevort, by C. F. A. CURRIER (*Review*), 372, 754; *Letters of John Marshall when Envoy to France, 1797-1798* (*Documents*), 294; *Notes and News*, 206, 386, 582, 776.
- Francis the First, 4, 5, 6.
- Franciscus of Venice, 595.
- Franck, *Les Réformateurs et Publicistes*, 409.
- Francke, Kuno, *Social Forces in German Literature*, by HENRY WOOD (*Review*), 336.
- Franklin and his Philadelphia Library, 59.
- Franks, 78.
- Frederick the Great, 36, 77, 79-86, 89-92; *History of Prussia under Frederic the Great, 1756-1757*, by Herbert Tuttle, by ULYSSES G. WEATHERLY (*Review*), 145.
- Freehold qualification, 666, 668.
- FREEMAN, G. R., *History of the Jewish Nation After the Destruction of Jerusalem Under Titus*, by Rev. Alfred Edersheim (*Review*), 184.
- French Revolution, 225, 228, 242.
- French School at Rome, 45.
- Friedberg, *Die mittelalterlichen Lehren über das Verhältniss von Staat und Kirche*, 409.
- Friedensburg, Dr., 52.
- Friends, Society of, 262, 265, 267, 737.
- Friendship, ship, 15.
- Frost, John, 231.
- Frost, *The Case of Frost vs. Leighton*, by ANDREW MCFARLAND DAVIS, 229.
- Froude, James Anthony, *Lectures on the Council of Trent*, by FRANK HUGH FOSTER (*Review*), 135.
- Fuente, Juan de la, 615.
- Fuentelsaz, Alfonso Suarez de, 617.
- Fuller, Thomas, quoted, 23.
- Fundamental Constitutions, 660.
- Furno, Jacob of, 607.
- Gallatin, Albert, 258, 264; quoted, 257.
- Gambrall, Rev. T. C., *Church Life in Colonial Maryland*, 74.
- Garda, Bishopric of, in Greenland, 57.
- Gardiner, S. R., 14.
- GARDNER, HENRY B., *The History of Local Rates in England*, by Edwin Cannan (*Review*), 139.
- Gardner, William, 254, 256, 257.
- Gee, Joshua, 657.
- Gelnhausen, Konrad von, 607.
- Genealogical Magazine*, 774.
- Genealogical Register*, 21.
- Genet-Clark correspondence, 380, 474.
- Gentleman's Magazine*, quoted, 16, 25, 26, 28, 29, 30, 31, 32.
- George III., 227, 632, 633.
- Georgia, kings of, 430.
- Georgia, *A List of Civil Lists* (*Bibliographical*), 765.
- German Pietists* (*The*), of *Provincial Pennsylvania, 1694-1708*, by Julius Friedrich Sachse, by Professor H. E. JACOBS (*Review*), 358.
- Germany, *History of the German Struggle for Liberty*, by Poultney Bigelow, by FERDINAND SCHWILL (*Review*), 519.
- Germany, Austria, Switzerland, *Notes and News*, 207, 388, 584, 779.
- Gerson, Johannes, 599, 607.
- Gibbon, *The Autobiographies of Edward Gibbon*, by John Murray, by EDWARD GAYLORD BOURNE (*Review*), 726.
- Gibbon, *Private Letters of Edward Gibbon (1753-1794)*, by Rowland E. Prothero, by EDWARD GAYLORD BOURNE (*Review*), 727.
- Gibbs, *Administrations of Washington and Adams*, quoted, 258.
- Gibson, Philip, 28.
- Giddings, Professor F. H., *Principles of Sociology* (*Review*), 185.
- Gideon's edition of the *Federalist*, 444, 445, 683.
- Gilbert, Adrian, 648.
- Gilbert, Sir Humphrey, 647.
- Gildes* (*Les*) *Marchandes dans les Pays-Bas au Moyen Age*, by Herman Vander Linden, by CHARLES GROSS (*Review*), 343.



- Giles, Aquila, 246.
- Goodell, Abner C., *Acts and Resolves, Public and Private, of the Province of Massachusetts Bay*, Vol. VIII. (Review), 189.
- GOODELL, ABNER C., JR., *The Life of Thomas Hutchinson, Royal Governor of Massachusetts Bay*, by James K. Hosmer (Review), 163
- Good Speed*, ship, 15.
- Goodwin, Mrs. Maud Wilder, *Dolly Madison* (Review), 376.
- Gookin, Daniel, 20.
- Golovkin, Count, 634.
- Gomar, Francis, 602.
- Goncourt, Edmond de, deceased, 201.
- Gonsalvo de Cordova, 3.
- Gordy, J. P., *A History of Political Parties in the United States* (Review), 574.
- Goths, 78.
- Gouldley, Henry, 657.
- Government, *The Proprietary Province as a Form of Colonial Government*, by HERBERT L. OSGOOD, 644.
- Governments and Parties in Continental Europe*, by A. Lawrence Lowell, by JESSE MACY (Review), 723.
- Governors, *A List of Civil Lists, for American History* (Bibliographical), 758.
- Grafton, Duke of, 30.
- Granny to General Lincoln, Petition from*, (Document), 698.
- Gravelines, 94.
- Great Britain, *A List of Civil Lists, for American History* (Bibliographical), 758.
- Great Britain and Ireland, *Notes and News*, 204, 383, 580, 774.
- Greyhound*, 30.
- Greece, *A Handbook of Greek Constitutional History*, by A. H. J. Greenidge, by G. W. BOTSFORD (Review), 567.
- Greek Church, 37, 38.
- Greely, Gen. A. W., *Handbook of Arctic Discoveries* (Review), 378.
- Green, *History of the English People*, 688; *Stray Studies*, 688.
- Greenidge, *A Handbook of Greek Constitutional History*, by G. W. BOTSFORD (Review), 567.
- Greenland, 57.
- Gregory XI., 426, 598, 599.
- Gregory, Rev. J., *Puritanism in the Old World and in the New*, by W. W. (Review), 350.
- Grieve, Hon. Mrs. Elizabeth, 30.
- Griffin, Appleton P.C., *Index to the Literature of American Local History in Collections published in 1890-95* (Review), 373.
- GRIFFIS, WM. ELLIOT, *Geschiedenis van het Nederlandsche Volk*, by P. J. Blok (Review), 122.
- GROSS, CHARLES, *Les Gildes Marchandes dans les Pays-Bas au Moyen Age*, by Herman Vander Linden (Review), 343; *The Red Book of the Exchequer*, by Hubert Hall (Review), 713; *Town Records of Great Britain* (Bibliographical), 191.
- Gross, Charles, Editor, *Select Cases from the Coroners' Rolls*, by GEORGE E. HOWARD (Review), 125.
- Grosvenor, Lady, 29.
- Grotius, Hugo, 84, 404, 409.
- Growth (The) of the French Nation*, by George Burton Adams, by CHARLES H. HASKINS (Review), 335.
- Gulston, Sir Ralph, 230.
- Gustavus I., 39.
- Gustavus II. Adolphus, 34, 36.
- Gustavus III., 39.
- Guzman, Diego Ramirez de, 620.
- Hadrian VI., 53.
- Hahn, Michael, 288, 293, 466, 470.
- Hale, Horatio, deceased, 577.
- Hall, Hubert, *The Red Book of the Exchequer*, by CHARLES GROSS (Review), 713.
- Hamilton, Alexander, 258, 443, 445, 453, 675, 676, 681.
- Hamilton, Gail [Abigail Dodge], *Biography of James G. Blaine*, by ALBERT BUSHNELL HART (Review), 181.
- Hamilton, John C., 443, 449, 684.
- Hanotaux, Gabriel, *Histoire du Cardinal de Richelieu*, Tome II, by JAMES BRECK PERKINS, (Review), 722.
- Harding, Samuel Bannister, *The Contest over the Ratification of the Federal Constitution in the State of Massachusetts*, by O. G. LIBBY (Review), 547.
- Harris, Thomas L., *The Trent Affair* (Review), 366.
- Harrisburg Conventions, 263, 264, 277, 278.



- Harun-el-rashid, 430.  
 Harvest-Boons, 217.  
 HART, ALBERT BUSHNELL, *Biography of James G. Blaine*, by Gail Hamilton [Abigail Dodge] (Review), 181.  
*Harvard Historical Studies*, 380.  
 HASKINS, CHARLES H., *The Vatican Archives*, 40; *Europe in the Middle Age*, by Oliver J. Thatcher and Ferdinand Schwill (Review), 511; *The Growth of the French Nation*, by George Burton Adams (Review), 335; *Manuel de Bibliographie Historique*, by Ch.-V. Langlois (Review), 320.  
 Hastings, *Die Schlacht von Hastings*, by Wilhelm Spatz, by J. H. ROUND (Review), 512.  
 Hauréau, B., deceased, 201.  
 Havet, Julien, *Oeuvres de Julien Havet* (Review), 186.  
 Hawkins, Alvin, 290, 291, 293.  
 Hazard, Ebenezer, 693.  
 Hedwiga of Poland, 37.  
 Heister, Joseph, 277.  
 Hemingford, manor of, 217, 218.  
 Hendsley, Elizabeth, 117.  
 Hening, *Statutes at Large*, 691.  
 Henrietta Maria, queen, 18.  
 Henry, Prince, quoted, 88.  
 Henry I., 232, 223, 224.  
 Henry II., of France, 601.  
 Henry IV., of France, 602, 616.  
 Henry VIII., of England, 52, 601, 646, 650.  
 HENRY, WILLIAM WIRT, *George Washington*, by Woodrow Wilson (Review), 539; *The True George Washington*, by Paul Leicester Ford (Review), 539.  
 Herrera, Alfonso Fernandez, 612.  
 Herrera, Francisco, 617.  
 Hergenröther, Cardinal, 42, 45.  
 Hernaez, Father, 57.  
 Herodotus, 428.  
 Heth, General William, quoted, 251.  
 Heylyn, Peter, *Cosmographie*, quoted, 20.  
*Hierarchie Ecclesiastica Assertio*, by Albert Pighio, 602.  
 Higginson, Stephen, 379.  
 Higgs, Henry, *The Physiocrats*, by W. J. ASHLEY (Review), 725.  
 Hinojosa, Ricardo de, 56.  
*Historical Briefs*, by James Schouler, by EDWARD G. BOURNE (Review), 321.  
 Historical Commission of the College of Cardinals, 43.  
*Historical Magazine*, 23.  
 Historical Manuscripts Commission, 379, 474, 775.  
*Historical Register*, 16, 19, 20, 24, 25.  
*Historisches Jahrbuch*, 53.  
*History, Prophecy and the Monuments*, by James Frederick McCurdy, Vol. II, by C. H. TOY (Review), 327.  
 Hobbes, 404, 409.  
 Ho Chung-t'ang, 634.  
 Hodgins, J. George, *Documentary History of Education in Upper Canada*, Vol. III. (Review), 378.  
 Holywell, 223.  
 Honorius III., registers of, 45.  
 Hooker, Edward, Journal of, 379.  
 Hosmer, James K., *The Life of Thomas Hutchinson*, by ABNER C. GOODELL, JR. (Review), 163.  
 Hoss, Dr. E. E., 284, 785.  
 Hotten, J. C., 14, 16.  
 Houghton, manor of, 218.  
 House of Commons, 665.  
 House of Lords, 682, 686.  
 House of Representatives, 279-293, 461-471.  
*House of Representatives, The Speaker of the*, by M. P. Follett, by Hon. THEODORE ROOSEVELT (Review), 176.  
 Houston, David Franklin, *A Critical Study of Nullification in South Carolina*, by FRANK M. ANDERSON (Review), 559.  
 HOUSTON, DAVID F., *Southern Statesmen of the Old Régime*, by William P. Trent (Review).  
 How, W. W., and Leigh, H. D., *A History of Rome to the Death of Caesar*, by CHARLES E. BENNETT (Review), 510.  
 HOWARD, GEORGE ELLIOTT, *The National Movement in the Reign of Henry III.*, by O. H. Richardson (Review), 715; *Select Cases from the Coroners' Rolls*, by Charles Gross (Review), 125.  
 Howe, Frederick C., *Taxation and Taxes in the United States under the Internal Revenue System, 1791-1895*, by A. C. MILLER (Review), 743.  
 Hsien-feng, Emperor, 638.  
 HUDSON, RICHARD, *L'Idée de l'État*, by Henry Michel (Review), 148.  
 Hume, Martin A. S., *The Year after the Armada and other Historical Studies*, by E. P. CHEYNEY (Review), 516.  
 HUNT, GAILLARD, *Office-Seeking during*

- the *Administration of John Adams*, 241.
- Hunt, Rev. John, quoted, 19.
- Hunter, James, 247, 248.
- Hurlbut, General, 290.
- Hutchinson Papers*, 13.
- Hutchinson, *The Life of Thomas Hutchinson*, by James K. Hosmer, by ABNER C. GOODELL, JR. ( *Review* ), 163.
- Hutton, William Holden, *Philip Augustus*, by W. WALKER ( *Review* ), 370.
- Ides, Ysbrandt, 627.
- Ieroslav, duke of Susdal, 430.
- Illinois, Constitution of, 671.
- Illustrations of the History of Medieval Thought*, by Poole, quoted, 415, 593.
- Indentures, 23, 27.
- Independent (The) Gazetteer*, quoted, 263.
- Independent Republicans, 278.
- Index to the Literature of American Local History in Collections published 1890-95*, by A. P. C. Griffin ( *Review* ), 373.
- Index Librorum prohibitorum*, 602.
- Indian massacre of 1623, 60.
- Ingersoll, Jared, 276.
- Innocent III., 41, 44, 45.
- Innocent IV., 430.
- Innerarity, J., letters to and from, 701, 703, 704.
- Inner Council, 634.
- Inquisition, 595, 611-626.
- Institut für Österreichische Geschichtsforschung, 53.
- Instrumenta castelli Sancti Angelo*, 49.
- Instrumenta miscellanea*, 49.
- Ireland, 1494-1868*, by William O'Connor Morris, by WILLIAM A. DUNNING, ( *Review* ), 515.
- Isabella, queen, 611, 615.
- Ismailoff, Count Leoff, 627, 643.
- Italy, *Notes and News*, 207, 387, 583, 778.
- Italy, *Short History of Italy*, by E. S. Kirkland ( *Review* ), 370.
- Italy in the Nineteenth Century and the Making of Austro-Hungary and Germany*, by Mrs. E. W. Latimer ( *Review* ), 571.
- Iung, General, deceased, 380.
- Ivan III., 37.
- Jacks, T. M., 466, 471.
- Jacobites, 15.
- JACOBS, H. E., *The German Pietists of Provincial Pennsylvania*, by Julius F. Sachse ( *Review* ), 358.
- Jaen, bishop of, 617.
- Jagello of Lithuania, 37.
- Jamaica, 14.
- James I., 17.
- James, *Journal of Rear-Admiral Bartholomew James*, edited by J. K. Laughton ( *Review* ), 569.
- Jandum, John of, 412, 416, 594.
- Janet, *Histoire de la Science Politique*, 409.
- Jay, John, 446, 453, 459, 679, 680, 685.
- Jefferson, Thomas, 242, 245, 247, 258, 448.
- Jefferson, *The Writings of Thomas Jefferson*, by Paul L. Ford, Vol. VIII. ( *Review* ), 755.
- JENKINS, HOWARD M., *History of Proprietary Government in Pennsylvania*, by William R. Shepherd ( *Review* ), 735.
- Jenny, 28.
- Jesuit Relations (The) and Allied Documents*, by BENJAMIN SULTE ( *Review* ), 522.
- Jesuits, 35, 38, 438, 627.
- Jesus Christ Before His Ministry*, by Edmond Stapfer, by F. A. CHRISTIE ( *Review* ), 754; *Jesus Christ During His Ministry*, do., 754.
- Jews, *A History of the Hebrew People from the Division of the Kingdom to the Fall of Jerusalem in 586 B. C.*, by Charles Foster Kent, by GEORGE F. MOORE ( *Review* ), 708; *History of the Jewish Nation after the Destruction of Jerusalem under Titus*, by Rev. Alfred Edersheim, by G. R. FREEMAN ( *Review* ), 184.
- Joan of Arc*, by Francis C. Lowell, by BENJAMIN S. TERRY ( *Review* ), 131.
- John V., 631.
- John XXII., 45, 411, 426, 593-5, 599, 694, 605, 609.
- John and Sarah*, 13.
- Johnson, J. M., 463, 466, 471.
- Johnson, Dr. S., quoted, 12.
- Johnson, Susanna, *Captivity*, 22.
- Johnston, W. D., *English Historical Reprints (Review)*, 370.
- Jones, Hugh, 18.
- Joseph II., emperor, 85, 86.
- Joseph Bonaparte, king, 699.
- Journal (The) of Capt. William Pote, Jr.*, by GEORGE STEWANT ( *Review* ), 157.

- Juan, prince, 618.  
 Juana, queen, 615, 618, 619.  
 Judiciary, Committee on, 280, 467.  
 Julius II., 616, 618, 622, 623, 626.  
 Justice, Henry, 26, 27.  
 Jusuf, Cadi Mulana Hagi, 435.
- K'ang-hsi, emperor, 627.  
 Kaunitz, 85, 86, 87.  
 Keasbey, Lindley M., *The Nicaragua Canal and the Monroe Doctrine*, by G. L. RIVES (*Review*), 750.  
 Keith, George, 68.  
 Kemper, Col. Reuben, 702.  
 Kennedy, J. P., letters, 700.  
 Kent, Charles Foster, *A History of the Hebrew People from the Division of the Kingdom to the Fall of Jerusalem in 586 B. C.*, by GEORGE F. MOORE (*Review*), 708.  
 Kent, Chancellor James, quoted, 448, 452, 459, 460, 676, 680, 684.  
 Kentucky, Constitution of, 668, 671.  
 Kidd, *Social Evolution* (*Review*), 185.  
 Kilty, *Landholder's Assistant*, quoted, 660.  
 King, Miles, 251.  
*Kingdom of Ireland*, by Walpole, quoted, 19.  
*King's Chapel, Annals of*, by Rev. H. W. Foote, Vol. II, edited by H. H. Edes, (*Review*), 574.  
 King William School, 73.  
 Kirkland, Miss E. S., *Short History of Italy* (*Review*), 370.  
 Kotow, *The Kotow Question*, 427-442, 627-643.  
 Kryzhanich, 36.  
 Kung, prince, 641.  
 Kuyuk Khan, 430.
- Ladd, Eliphalet, quoted, 255.  
 La Loubère, *Description du Royaume de Siam*, quoted, 427.  
 Lamb, *Life of John Lamb*, by Leake, 245.  
 La Merced, convent of, 621.  
 Lancaster, Pa., 266, 270, 275.  
 Land-council, 662.  
 LANDFIELD, JEROME B., *The Transliteration of Russian Names* (*Bibliographical*), 766.  
 Landulf of Colonna, *De Translatione Imperii*, 416.  
 Lang, Andrew, *Pickle the Spy, or the incognito of Prince Charles* (*Review*), 570.  
 Lange, Monsieur, 5.  
 Langenstein, 607.  
 Langlois, Ch. V., *Manuel de Bibliographie Historique*, by CHARLES H. HASKINS (*Review*), 320.  
 LANMAN, CHARLES R., *Buddhism, Its History and Literature*, by T. W. Rhys Davids (*Review*), 330.  
 La Rabida, Convent of, 57.  
 Lateran, 43, 44.  
 Latimer, Mrs. Elizabeth W., *Italy in the Nineteenth Century and the making of Austro-Hungary and Germany* (*Review*), 571.  
 Laughton, J. K., editor, *Journal of Rear-Admiral Bartholomew James* (*Review*), 569.  
 Laurent of Portugal, 430.  
 Lawrence, John, 248.  
 Layman's libraries, 68, 70, 72.  
 Lea, Henry Charles, *A History of Auricular Confession and Indulgences in the Latin Church*, by E. EMERTON (*Review*), 113.  
 LEA, HENRY CHARLES, *Lucero, the Inquisitor*, 611.  
 Leake's *Life of John Lamb*, 245.  
 Lechler, *Johann Wiclif*, 593, 607.  
 Lecky, William E. H., *Democracy and Liberty*, by A. L. LOWELL (*Review*), 153.  
*Lectures Upon the Church Catechism*, by Rev. Thomas Bray, 61.  
 Leeward Islands, 14.  
 Le Gay, Isaac, 14.  
 Legnano, Battle of, 35.  
 Leigh, H. D. See How, W. W.  
 Leighton, *The Case of Frost vs. Leighton*, by ANDREW MCFARLAND DAVIS, 229.  
 Lenox Library, 64.  
 Lent-ploughing, 216.  
 Lenz, Professor, 52.  
 Leo X., register of, 45.  
 Leo XIII., 43.  
 Leopold of Bebenburg, *De Juribus Regni et Imperii*, 597.  
 LEVERMORE, CHARLES H., *The Historical Development of Modern Europe*, by Charles M. Andrews, Vol. I., (*Review*), 354; *The Middle Period*, by John W. Burgess (*Review*), 746.  
 Lewis and Clark's expedition, 474.  
 Lewistown, Pa., 278.  
 LIBBY, O. G., *The Contest over the Ratifi-*

- cation of the Federal Constitution in the State of Massachusetts, by Samuel B. Harding (*Review*), 547.
- Libere feudati*, 214, 220.
- Liberum veto*, 83.
- Libraries, Rev. Thomas Bray and his American Libraries, by BERNARD C. STEINER, 59.
- Libri obligationum, solutionum, supplicationum*, 46.
- "Licentius Evangelus," 600.
- Lieber, Dr. Francis, quoted, 12.
- Lincoln, Abraham, 288, 289, 462, 463.
- Lincoln, General Benjamin, 256, 693, 695, 698, 699.
- LINCOLN, C. H., *The Cahiers of 1789 as an Evidence of a Compromise Spirit*, 225.
- Linden, Herman Vander, *Les Gildes Marchandes dans les Pays-Bas au Moyen Age*, by CHARLES GROSS (*Review*), 343.
- Lindsay, Colonel William, 247, 252.
- Liste par ordre alphabétique de Bailliages et Sénéchaussés de MM. les Députés aux États-Généraux*, 227.
- Little, A. G., *The Grey Friars in Oxford*, 413.
- Livermore, Matthew, 232.
- Locke, 404.
- Lodge, H. C., quoted, 19, 443, 445, 447, 684.
- London, Bishop of, 599.
- London Magazine*, quoted, 25, 26, 29.
- Long Island, Early; a Colonial Study*, by Mrs. Martha Bockée Flint (*Review*), 395.
- Lorenz, 409.
- Louis, St., 431.
- Louis XI., 608.
- Louis XIV., 36, 79, 89.
- Louis XV., 78, 79, 86, 89.
- Louis the Bavarian, emperor, 51, 412, 416, 431, 594, 595, 596, 604, 605, 606, 609.
- Louisiana, Carondelet on the Defence of Louisiana, 1794 (*Documents*), 474; Constitution of, 466.
- Louvain, University of, 55, 601.
- Lovebones*, 215, 219, 220.
- Lovefather*, 220.
- Low, Frederick F., 640, 643.
- Lowe, John, 29.
- LOWELL, A. L., *Democracy and Liberty*, by William Edward Hartpole Lecky (*Review*), 153.
- Lowell, A. Lawrence, *Governments and Parties in Continental Europe*, by JESSE MACY (*Review*), 729, 769.
- Lowell, Francis C., *Joan of Arc*, by BENJAMIN S. TERRY (*Review*), 131.
- Loyalists, 282, 286.
- Lucero the Inquisitor*, by HENRY CHARLES LEA, 611.
- Luther, 426, 600, 609.
- Luther vs. Borden, 463.
- Luttrell, Narcissus, diary, 18.
- Lymar, Count, 87.
- Lyon, Matthew, quoted, 256, 257.
- Macartney, Earl of, 631-636.
- Macaulay, 14, 19.
- Macchiavelli, 4, 5, 77.
- McClellan, G. B., 467.
- McCurdy, James Frederick, *History, Prophecy and the Monuments*, Vol. II., by C. H. TOY, 327.
- McGee, Jonathan, 697.
- MCGIFFERT, A. C., *The Roman See in the Early Church and Other Studies in Church History*, by William Bright (*Review*), 106.
- McHenry, J., 243.
- McKean, Thomas, 274, 275; *Letter to Washington (Document)*, 98.
- McKee, John, 703, 704.
- Mackinnon, James, *The Union of England and Scotland (Review)*, 143.
- Mackintosh, *History of the Revolution of 1688*, 14.
- McLAUGHLIN, A. C., *The United States of America*, by Edward Channing (*Review*) 161.
- M'Lennan, John Ferguson, *Studies in Ancient History*, by D. G. BRINTON (*Review*), 506.
- McMaster and Stone, *Pennsylvania and the Federal Constitution*, 263, 264.
- MACY, JESSE, *Governments and Parties in Continental Europe*, by A. Lawrence Lowell (*Review*), 729.
- Madison, James, 275, 443, 460, 675-687; *Calendar of the Correspondence of*, 700.
- Madison*, Dolly, by Mrs. Maud Wilder Goodwin (*Review*), 376.
- Maestro di Campo*, 6.
- Magdeburg rights, 39.
- Magill, Rev. D., 27.

- MAHAN, A. T., *A History of the Administration of the Royal Navy*, by M. Oppenheim (*Review*), 719; *Naval Actions of the War of 1812*, by James Barnes (*Review*), 574.
- Maine, charter, 651.
- Maitland, F. W., 689.
- Maître-de-camp*, 6.
- Major, 6.
- Major-general, 6.
- Manatt, J. Irving. See Tsountas, Chrestos, 706.
- Mandamus, writs of, 229.
- Mangu Khan, 432.
- Mankind, *The History of Mankind*, by Professor Friedrich Ratzel, by D. G. BRINTON (*Review*), 322.
- Mann, W. D., 466, 471.
- Manoel of Portugal, 612.
- Mantes et Meulan, 227.
- Mar and Derwentwater rising, 15.
- Marbury vs. Madison, 229.
- Marcel, Étienne, 610.
- Marcour, 415.
- Maria Theresa, 85, 87, 99, 92.
- Marshall, *Letters of John Marshall when Envoy to France, 1797, 1798*, (*Documents*), 294.
- Marshall, William, 601.
- Marshalsea, 25.
- Marsiglio of Padua and William of Ockam*, by JAMES SULLIVAN, 409-426, 593-610.
- Martin V., 52, 53.
- Martin, Thomas, 256.
- Martin, W. A. P., *A Cycle of Cathay* (*Review*), 521.
- Martyr, Peter, of Anghiera, 617, 622, 624.
- Maryland, 61, 66, 67, 73; charter, 649; *A List of Civil Lists* (*Bibliographical*), 764.
- Mas-Latrie, Count de, deceased, 577.
- Mason and Dixon's line, 59.
- Mason, John, 656.
- Mason, Dr. Robert, 656.
- Massachusetts, *Acts and Resolves*, 20, 21; archives, 694, 695, 696, 698; convention, 100; Council, 235; General Court, 15; Governor, 21; *Journals*, 100, 742; slaves, 21; Superior Court, 229, 230, 232; see Shays.
- Massachusetts, *A Committee of the Massachusetts Legislature on Additional Amendments to the Federal Constitution, 1790, 99; History of the Transition from Provincial to Commonwealth Government in Massachusetts*, by Harry A. Cushing, by ANDREW MCFARLAND DAVIS (*Review*), 740; *The Contest Over the Ratification of the Federal Constitution in the State of Massachusetts*, by Samuel B. Harding, by O. G. LIBBY (*Review*), 547; *A List of Civil Lists* (*Bibliographical*), 760.
- Massachusetts Historical Society, 21, 69, 373.
- Massie, David Meade, *Nathaniel Massie, a Pioneer of Ohio* (*Review*), 377.
- Maximilian I., 620, 633.
- Maynard, Horace, 285.
- Mayorga, Fray Francisco de, 624.
- Mayorga, Gonzalo de, 613.
- Mazarin, Cardinal, 77.
- Medieval History, *Notes and News*, 203, 382, 578, 772.
- Megenberg, Conrad of, 607.
- Melish, John, *Travels in the United States*, 247.
- Membreque, Bachiller, 614.
- Memorial History of Boston*, quoted, 13.
- Mesa, Luis de, 612.
- Metello Souza Menezes, Alexander, 631.
- Meulan, 227.
- Mézières, Philip de, 598.
- Michel, Henry, *L' Idée de l' État*, by RICHARD HUDSON (*Review*), 148.
- Middle Period, The*, by John W. Burgess, by CHARLES H. LEVERMORE (*Review*), 746.
- Middlesex Records*, quoted, 17.
- Mifflin, General, 267.
- MILLER, A. C., *Taxation and Taxes in the United States under the Internal Revenue System*, by Frederick C. Howe, (*Review*), 743.
- Minorites, 426, 596, 606.
- MITCHELL, EDWIN KNOX, *History of Christian Doctrine*, by George Park Fisher (*Review*), 332.
- Mitchell, James T. and Henry Flanders, *The Statutes at Large of Pennsylvania from 1682 to 1801*, Vols. II., III., by PAUL LEICESTER FORD (*Review*), 734.
- Modern European History, *Notes and News*, 203, 383, 579, 773.
- Monmouth rebellion, 14.
- Monroe, James, 258, 276.
- Montesquieu, 404, 409.
- Montgomery, Peter, 22.

- Monumenta Vaticana Hungaria*, 54.
- MOORE, FREDERICK W., *Representation in the National Congress from the Seceding States, 1861-65*, 279-293, 461-471.
- MOORE, GEORGE F., *A History of the Hebrew People*, by Charles Foster Kent, (Review), 708.
- Mora, M. Domenico, *Il Soldato*, 7.
- Morley, *Life of Cobden*, 306.
- Morris, William O'Connor, *Ireland, 1494-1868*, by WILLIAM A. DUNNING (Review), 515.
- Mosby's Rangers*, by James J. Williamson, by THEODORE A. DODGE (Review), 367.
- Muhlenberg, Frederick Augustus, letters from, quoted, 243-245.
- Müller, Max, *Ain kurtzer Auszug des treffenlichen Wercks und Fridschirm-buches Marsilii*, 602.
- Mycenaean Age, The*, by Chrestos Tsountas and J. Irving Manatt, by F. B. TARBELL (Review), 706.
- MUNKO, DANA CARLETON, *Bibliotheca Historica Medii Aevi*, by August Potthast (Review), 710.
- Murray, John, *The Autobiographies of Edward Gibbon*, by EDWARD GAYLORD BOURNE (Review), 726.
- Myrtilda*, 32.
- Napoleon I., 36, 41, 427, 637, 640.
- Napoléon et Alexandre Ier*, by Albert Vandal, Tome III., by HENRY E. BOURNE (Review), 351.
- Narrative of the Success of an Embassy unto the Emperor of China and Tartary*, quoted, 438.
- National Movement, The, in the Reign of Henry III.*, by Oliver H. Richardson, by GEORGE E. HOWARD (Review), 715.
- Native American party, 673.
- Naturalization, 673.
- Navy, *A History of the Administration of the Royal Navy*, by M. Oppenheim, by A. T. MAHAN (Review), 719.
- Neill, E. D., quoted, 17, 27.
- NEILSON, N., *Boon-Services on the Estates of Ramsey Abbey*, 213.
- Nelson, Thomas A. R., 285.
- NELSON, W., *The Life, Public Services, Addresses and Letters of Elias Boudinot*, by J. J. Boudinot, (Review), 545; *The Writings of John Dickinson*, Vol. I., by Paul Leicester Ford (Review), 362.
- New Amstel, 15.
- Newcastle customs, 689.
- New England Historical and Genealogical Register*, 13.
- Newgate, 17, 23-26, 28.
- New Hampshire, *A List of Civil Lists (Bibliographical)*, 760.
- New Jersey, *A List of Civil Lists (Bibliographical)*, 763; see also West Jersey.
- New Jersey Archives*, Vol. XII. (Review), 190.
- News Letter*, quoted, 22.
- New York, *A List of Civil Lists (Bibliographical)*, 762; *Colonial Documents*, 24; constitution, 666; convention, 453, 459, 681; Legislature, 678; Supreme Court, 677.
- New York Journal*, 681.
- Netherlands, *Geschiedenis van het Nederlandsche Volk*, by P. J. Blok, by WM. ELLIOTT GRIFFIS (Review), 122; *Notes and News*, 390, 585, 780.
- Netherway, Richard, of Bristol, 15.
- Nicaragua Canal (The) and the Monroe Doctrine*, by Lindley M. Keasbey, by G. L. RIVES (Review), 750.
- Nicholas IV., 433.
- Nicholas V., 599.
- Nicholson, Governor Francis, 66, 67, 72.
- Niem, Dietrich von, 599.
- Niesse, conference at, 85.
- Nieuhoff, quoted, 441.
- Nipchu, treaty of, 627.
- Nominating Conventions in Pennsylvania*, by JOS. S. WALTON, 262.
- North Carolina, *A List of Civil Lists (Bibliographical)*, 765.
- Northend, William Dummer, *The Bay Colony*, by W. B. WEEDEN (Review), 534.
- Northern Europe, *A Plea for the Study of the History of Northern Europe*, by ARCHIBALD CARY COOLIDGE, 34; *Notes and News*, 390, 585, 781.
- Norton, Francis, 20.
- Norway, Arthur H., *History of the Post-office Packet Service*, by C. W. ERNST (Review), 151.
- Notes and News*, 201, 379, 577, 679.
- Notes and Queries*, quoted, 19, 20, 27, 29, 30, 31, 32.
- Notes on Virginia*, by Jefferson, 448.
- Novgorod the Great, 39.
- Nullification, *A Critical Study of Nullifica-*



- tion in South Carolina, by David F. Houston, by FRANK M. ANDERSON (*Review*), 559.
- Nuncios, reports of, 48, 51, 52, 54, 55, 56.
- Nyel, Father, 631.
- Ockam, William of, *Marsiglio of Padua and William of Ockam*, by JAMES SULLIVAN, 409-426, 593-610.
- Oeconomica*, by Conrad of Megenberg, 597.
- Octo Quaestiones*, by Ockam, 606, 609.
- Odo, Gerald, 596, 605.
- Officers, *A List of Civil Lists for American History (Bibliographical)*, 758.
- Office-seeking During the Administration of John Adams*, by GAILLARD HUNT, 241.
- Old Bailey archives, 31.
- Old South Leaflets*, Vol. III. (*Review*), 374.
- Oligarchies, Greek; Their Character and Organization*, by Leonard Whibley, by G. W. BOTSFORD (*Review*), 369.
- O'Meara, Barry E., *Napoleon in Exile*, 644, 637, 640.
- Oppenheim, M., *History of the Administration of the Royal Navy*, by A. T. MAHAN (*Review*), 719.
- Opus nonaginta Dierum*, by Ockam, 413.
- Orrery, Earl of, quoted, 9, 10.
- Orsini, Cardinal Napoleon, 596.
- OSGOOD, HERBERT L., *The Proprietary Province as a Form of Colonial Government*, 644; *The Beginners of a Nation*, by Edward Eggleston (*Review*), 528.
- Orso, Z., letter to, 700.
- Osorio, Francisco de, 620.
- Osservanza Militare*, by Captain Francisco Ferretti, 5.
- Owen, Thomas M., 699.
- Oxford, Earls of, 657; University of, 60, 599.
- Padra, Dr. Ferdinand, 780.
- Palæography, School of, 778.
- Palmieri, 56.
- Palude, Peter, *De Causa immediata ecclesiasticæ Potestatis*, 595.
- Panin, Count, 87.
- Papal bulls, 46; *Letters*, ed. Bliss, 55; *regesta*, 55.
- Papes et Tsars*, by Pierling, 56.
- Paris, University of, 602, 607.
- Parker, Josiah, 247, 249, 250.
- Parma, Alexander Farnese, Duke of, 7.
- Parochial libraries, 61, 62, 63, 68, 72, 73, 74.
- Parrenmin, Father, 631.
- Partition (The) of Poland*, by JAMES BRECK PERKINS, 76.
- Passau, bishop of, letter, 593.
- Past and Present*, by Carlyle, 688.
- Patterson, Daniel, editor *Defensor Pacis*, 603.
- Pattison, George, 697.
- Paulding, 683.
- Peace party convention, 1811, 276.
- Peasant's Revolt, 610.
- Pelagius, Alvarez, *Summa de Planctu Ecclesie*, 595.
- Pellicciari, Bartolomeo, *Avvertimenti in Fattioni di Guerra*, 9.
- Penitentiary, archives of Papal, 41, 47.
- Penn, John, Richard, Thomas, William, 656-658.
- Pennell, Abraham, 697.
- Pennsylvania, assembly, 230; censors, 449; charter, 651; constitution, 262, 270, 277, 666; *List of Civil Lists (Bibliographical)*, 763; *History of Proprietary Government in Pennsylvania*, by William R. Shepherd, by HOWARD M. JENKINS (*Review*), 735; *Nominating Conventions in Pennsylvania*, by JOS. S. WALTON, 262; *The Statutes at Large of Pennsylvania from 1682 to 1801*, by James T. Mitchell and Henry Flanders, Vol. II., by PAUL LEICESTER FORD (*Review*), 734.
- Pennsylvania Archives*, quoted, 23.
- Pennsylvania Colonial Records*, quoted, 23.
- Pennsylvania and the Federal Constitution*, by McMaster and Stone, 263.
- Pennsylvania, Colony and Commonwealth*, by Sidney George Fisher, by WILLIAM R. Shepherd (*Review*), 534.
- Perez, D., 700.
- PERKINS, JAMES BRECK, *Histoire du Cardinal de Richelieu*, by Gabriel Hanotaux, Tome II. (*Review*), 722; *Histoire des Princes de Condé pendant les XVI<sup>e</sup> et XVII<sup>e</sup> Siècles*, by M. le Duc d'Aumale (*Review*); *The Partition of Poland*, 76.
- Pescara, Marquis of, 4.
- Peter the Great, 34, 79, 80, 81.
- Petition from Coleraine to the Governor and Council (Document)*, 696.
- Petition from Granby to General Lincoln (Document)*, 698.



- Petrie, W. M. Flinders, *A History of Egypt*, Vol. II., by JAMES HENRY BREASTED (Review), 324.
- Philadelphia Library, 59.
- Philip, king of Castile, 615, 616, 618, 619.
- Philip Augustus*, by William Holden Hut-  
ton, by W. WALKER (Review), 370.
- Philip the Fair, 433.
- Phrygia, *The Cities and Bishoprics of Phrygia*, by W. M. Ramsay, Vol. I.,  
by J. R. S. STERRETT (Review), 507.
- Physiocrats, The*, by Henry Higgs, by  
W. J. ASHLEY (Review), 725.
- Pierce, Hon. Edward L., 306.
- Pierling, *Documents inédits sur les rapports  
du Saint-Siège avec les Slaves; Papes  
et Tsars; La Russie et le Saint-Siège*,  
56.
- Pighio, Albert, 426, 600, 602.
- Pinckney, Eliza*, by Mrs. H. H. Ravenel  
(Review), 376.
- Pitra, 56.
- Pius IV., 602.
- Plea (A) for the Study of the History of  
Northern Europe*, by ARCHIBALD CARY  
COOLIDGE, 34.
- Plummer, Charles, *Venerabilis Bedæ  
Historia Ecclesiastica*, by WILBUR C.  
ABBOTT (Review), 339.
- Plymouth, *A List of Civil Lists (Biblio-  
graphical)*, 761.
- Pocock, Rev. Nicholas, deceased, 769.
- Poland, *The Partition of Poland*, by  
JAMES BRECK PERKINS, 76.
- Pole, Cardinal Reginald, 601.
- Polish Succession, War of, 77.
- Political Disquisitions*, by Burgh, 454.
- Political Science and History*, by JOHN W.  
BURGESS, 401.
- Politics*, Aristotle's, 419.
- Pollock and Maitland, *History of English  
Law*, 689.
- Poniatowski, Stanislaus, 81, 82, 83.
- Poole, Dr. Reginald Lane, *Historical Atlas  
of Modern Europe*, 380; on Ockam,  
413, 415, 593, 605.
- Poore, *Constitutions*, quoted, 667.
- Popes, registers of, 50.
- Popham, Chief Justice, 22, 23.
- Porroni, Marchese Annibale, *Trattato*,  
6, 7.
- PORTER, EDWARD G., *The Colonial Tax-  
ern*, by Edward Field (Review), 732.
- Portland, History of*, by Willis, 232, 238.
- Portmanmoot, 689.
- Postoffice Packet Service, *History of the  
Postoffice Packet Service*, by Arthur H.  
Norway, by C. W. ERNST (Review),  
151.
- Potagium*, 218.
- Pote, *The Journal of Captain William  
Pote, Jr.*, by GEORGE STEWART (Re-  
view), 157.
- Potthast, August, *Bibliotheca Historica  
Medii Ævi*, by DANA C. MUNRO (Re-  
view), 710.
- Poulett, Earl of Oxford, 657.
- Powell, Major J. W., *Thirteenth Annual  
Report of the Bureau of Ethnology (Re-  
view)*, 187.
- Precarie*, 214, 215, 217, 218.
- Presles, Raoul de, 598.
- Priego, marquis of, 621.
- Primordia Bibliothecaria*, by Rev. Thomas  
Bray, 69.
- Privy Council, 24, 229, 232, 233, 235,  
237, 238, 239.
- Prizes, 769.
- Propaganda, archives of, 42, 54.
- Property qualifications, 668.
- Proposals for the Incouragement and Pro-  
moting of Religion and Learning in the  
Foreign Plantations*, by Rev. Thomas  
Bray, 61; quoted, 62.
- Proprietary Charters, 659.
- Proprietary Province (The) as a Form of  
Colonial Government*, by HERBERT L.  
OSGOOD, 644.
- Proprietors, 648, 650.
- Prothero, Rowland E., *Private Letters of  
Edward Gibbon (1753-1794)*, by ED-  
WARD G. BOURNE (Review), 727.
- Proud, *History of Pennsylvania*, 658.
- Prussia, *History of Prussia under Frederic  
the Great, 1756-1757*, by Herbert  
Tuttle, by ULYSSES G. WEATHERLY  
(Review), 145.
- Prussian Academy of Sciences, 52, 780.
- Prussian Institute, 52.
- Pskov, 39.
- Public Spirit illustrated in the Life and  
Designs of the Reverend Thomas Bray,  
D.D.*, 69.
- "Publius," 675.
- Pufendorf, S., 404.
- Puritan, The, in England and in New  
England*, by Ezra Hoyt Byington, by  
WILLIAM B. WEEDEN (Review), 532.

- Puritanism in the Old World and in the New*, by Rev. J. Gregory, by W. WALKER (*Review*), 350.
- PUTNAM, RUTH, *Correspondance du prince Guillaume d'Orange avec Jacques de Wesenbeke* (*Review*), 371.
- Quakers, 15, 657.
- Quebec, *The Province of Quebec and the Early American Revolution*, by Victor Coffin (*Review*), 360.
- Quids, 274.
- Quill, Albert William, *The History of P. Cornelius Tacitus* (*Review*), 568.
- Quintipartite Deed, 656.
- Raine, Dr. James, deceased, 202.
- Raleigh, Sir Walter, 647.
- Ramsay, W. M., *The Cities and Bishoprics of Phrygia*, Vol. I., by J. R. S. STERRETT (*Review*), 507.
- Ramsey, M. M. See Rowan, A. S.
- Ramsey Abbey, *Boon Services on the Estates of Ramsey Abbey*, by N. NEILSON, 213.
- Ratzel, Friedrich, *The History of Man-kind*, by D. G. BRINTON (*Review*), 322.
- Ravenel, Mrs. H. H., *Eliza Pinckney* (*Review*), 376.
- Raynaldus, *Annales Eccles.*, 426, 606 ss.
- Reconstruction, Joint Committee on, 279, 469.
- Red Book, The, of the Exchequer*, by Hubert Hall, by CHARLES GROSS (*Review*), 713.
- Reed, W. B., 638.
- Reformation, 38, 56, 600.
- Regesta*, 44, 46, 47, 50.
- Reggimenti*, 3.
- Regiment, 8.
- Registration, 288, 672.
- Religious qualifications, 668.
- Renick, Edward I., 98.
- Rémusat, Abel, *Mélanges Asiatiques*, 633.
- Repertorium Germanicum*, 51, 52.
- Representation in the National Congress from the Seceding States, 1861-65*, by FREDERICK W. MOORE, 279-293, 461-471.
- Report of the Venezuelan Commission, 756.
- Republicans, 83, 242, 254, 263, 270, 281, 284.
- Reresby, Sir John, *Memoirs*, 472.
- Review of Historical Publications Relating to Canada*, by George M. Wrong, Vol. I. (*Review*), 575.
- Revolution, American, 70, 247, 262, 672; French, 76, 77.
- Revue Internationale des Archives, des Bibliothèques et des Musées*, 770.
- Rhode Island, *A List of Civil Lists* (*Bibliographical*), 761.
- Rhode Island Colonial Records*, quoted, 24.
- Rhodes, *History of the United States*, 306.
- Riezler, *Die literarischen Widersacher der Päpste zur Zeit Ludwig des Baiers*, 409, 414, 425, 597.
- Richard I., 689.
- Richard, Édouard, *Acadia*; by GEORGE M. WRONG (*Review*), 159.
- Richardson, Oliver H., *The National Movement in the Reign of Henry III.*, by GEORGE ELLIOTT HOWARD (*Review*), 715.
- Richelieu, Duke of, 82.
- Richelieu, *Histoire du Cardinal de Richelieu*, by Gabriel Hanotaux, Tome II., by JAMES BRECK PERKINS (*Review*), 722.
- Richman, Irving B., *John Brown among the Quakers and other Sketches* (*Review*), 575.
- Rienzi, 610.
- Rigbie, James, 74.
- Rights, Bill of, 99.
- Ripa, Father, 627.
- RIVES, G. L., *The Nicaragua Canal and the Monroe Doctrine*, by Lindley M. Keasbey (*Review*), 750.
- Robertson, Gilbert, 248.
- ROBINSON, JAMES HARVEY, *Lorenzo de' Medici, and Florence in the Fifteenth Century*, by E. Armstrong, (*Review*), 134.
- ROCKHILL, WILLIAM WOODVILLE, *Diplomatic Missions to the Court of China, The Kotow Question*, 427-442, 627-643; *Introduction à l'Histoire de l'Asie*, by Léon Cahun (*Review*), 128.
- Rodrigo, *Hist. verdadera de la Inquisicion*, 614.
- Rogers, Horatio, *Mary Dyer of Rhode Island* (*Review*), 376.
- Rodway, James, *The West Indies and the Spanish Main* (*Review*), 187.
- Rojas, Francisco de, 618, 619.
- Roman See, *The Roman See in the Early Church and other Studies in Church History*, by William Bright, by A. C. McGIFFERT (*Review*), 106.

- Rome, *A History of Rome to the Death of Caesar*, by W. W. How and H. D. Leigh, by CHARLES E. BENNETT (*Review*), 510.
- Rome of To-day and Yesterday: *the Pagan City*, by John Dennie (*Review*), 369.
- Rorkes, Ralph, 17.
- Round, J. H., Introduction to *The First Charter of St. Edmund's Bury, Suffolk (Documents)*, 688; *Die Schlacht von Hastings*, by Wilhelm Spatz (*Review*), 512.
- ROOSEVELT, THEODORE, *The Speaker of the House of Representatives*, by M. P. Follett (*Review*), 176.
- Roosevelt, Theodore, *The Winning of the West*, Vol. IV., by FREDERICK J. TURNER (*Review*), 171.
- Rowan, A. S., and M. M. Ramsey, *The Island of Cuba* (*Review*), 576.
- Rozière, Eugène de, deceased, 202.
- Rubruk. See Ruysbroek.
- Rukh, Shah, 433, 435.
- Russell, Richard, 20.
- Russie (La) et le Saint-Siège*, by Pierling, 56.
- Ruysbroek, or Rubruk, William, *Itinerary*, quoted, 432.
- Sachse, Julius Friedrich, *The German Pietists of Provincial Pennsylvania*, by H. E. JACOBS (*Review*), 358.
- Sainsbury, W. Noel and Hon. J. W. Fortescue, *Calendar of State Papers, Colonial Series, America and West Indies, 1677-1680*, by PHILIP BRUCE (*Review*), 530.
- St. Clair, General Arthur, 267.
- St. Edmund's Bury, *The First Charter to St. Edmund's Bury, Suffolk (Document)*, 688.
- St. Ives, 219.
- Saint John's College, 73.
- Saint Peter's, archives of, 41.
- St. Prisca, 607.
- Sampson, Abbot, 688.
- Sanchez, Juan, 613.
- Sands, Joshua, 247.
- Satow, Ernest M., 428.
- Saussure, Léopold de, *La Chine et les Puissances occidentales*, 643.
- Savage, Thomas, 20.
- Savorgnano, 5, 6, 7, 8.
- Say, *Weekly Journal*, 32.
- Scharf, J. T., 19, 22, 30.
- Schism, Great, 49, 599.
- School at Athens, 50.
- SCHOULER, JAMES, *Evolution of the American Voter*, 665.
- Schouler, James, *Historical Briefs*, by EDWARD G. BOURNE (*Review*), 321.
- SCHWILL, FERDINAND, *History of the German Struggle for Liberty*, by Poultney Bigelow (*Review*), 519.
- Schwill, Ferdinand. See Thatcher, Oliver J.
- Science, *A History of the Warfare of Science with Theology in Christendom*, by Andrew D. White (*Review*), 107.
- Scotale, 221.
- Scotch Irish (The) in America: Proceedings and Addresses of the Seventh Congress* (*Review*), 572, 263.
- Scotland, *The Union of England and Scotland*, by James Mackinnon (*Review*), 143.
- Seceding States, see Representation.
- Secret du Roi*, quoted, 79, 92.
- Secretaria Brevium, archives of, 41.
- Secretariat, papal, 48.
- Sedition Law, 257.
- Seebohm, F., quoted, 222.
- Seeley, Sir J. R., 405, 406, 407.
- Segar, Joseph, 282, 283, 292.
- Senate, applications for admission to, 1861-1865, 291, 461.
- Senate Journal*, quoted, 100.
- Seven Years' War, 76, 80, 81.
- Several Circular Letters to the Clergy of Maryland*, by Rev. Thomas Bray, 68.
- Sewall, Judge S., quoted, 232, 238.
- Shaftesbury, Earl of, 658.
- SHAW, ALBERT, *The History of the Last Quarter Century in the United States*, by E. Benjamin Andrews (*Review*), 561.
- Shays's Rebellion, *Documents Relating to the Shays Rebellion, 1787*, 693.
- Shepard, Major-General William, 693, 694.
- Shepherd, William Robert, *History of Proprietary Government in Pennsylvania*, by HOWARD M. JENKINS (*Review*), 735.
- SHEPHERD, WILLIAM R., *Pennsylvania, Colony and Commonwealth*, by Sidney G. Fisher (*Review*), 534.
- Shepley, Military Governor, 288, 289, 290, 461.
- Sherman, *The Life of Roger Sherman*, by Lewis Boutell, by SIMEON E. BALDWIN (*Review*), 536.

- Shirley, Governor William, 231, 240.  
 Shulze, John Andrew, 278.  
 Siam, King of, 427.  
 Sickel, Theodor von, 44, 53.  
 Sidgwick, Professor, 405.  
 Signatura Gratiae, archives of, 41.  
 Silbernagl, *Ockam's Ansichten*, 415, 416, 421.  
 Sistine Chapel, archives of, 41.  
 Slave Trade, *The Suppression of the African Slave Trade to the United States of America, 1638-1870*, by W. E. B. Du Bois, by STEPHEN B. WEEKS (*Review*), 555.  
 Smith, Jeremiah, 254.  
 Smith, Oren, 697.  
 Smith, Sir Thomas, 17.  
 Smith, William, 258.  
 Smith, William Henry, deceased, 202.  
 Smolka, Professor, 54.  
 Snyder, Simon, 274, 275, 276.  
*Social Forces in German Literature*, by Kuno Francke, by HENRY WOOD (*Review*), 336.  
 Society for Promoting Christian Knowledge, 67.  
 Society for Propagating the Gospel in Foreign Parts, 68, 72.  
*Soldato, II*, by M. Domenico Mora, 7.  
*Somnium Viridarii*, 598.  
*Songe du Vergier*, 607.  
 Sotomayor, Luis de, 612.  
 South Carolina, *A List of Civil Lists (Bibliographical)*, 765; Constitution, 668; Legislature, 67, 70.  
 Southern History Association, *Publications (Review)*, 755.  
*Southern Statesmen of the Old Régime*, by William P. Trent, by DAVID F. HOUSTON (*Review*), 749.  
 Spain, *Lord Burghley on the Spanish Invasion, 1588 (Documents)*, 93.  
 Spanish Succession, War of, 36, 76.  
 Spartanburg, *Proceedings at the Unveiling of the Battle Monument at Spartanburg*, by Hon. William A. Courtenay (*Review*), 573.  
 Spatz, Wilhelm, *Die Schlacht von Hastings*, by J. H. ROUND (*Review*), 512.  
 Sparks papers, 294.  
 Spofford, Jonathan, 257.  
 Sperthias, 429.  
 Springfield, arsenal at, 693.  
 Stamp Act, 98.  
 Stanislaus, king of Poland, 77, 81, 82, 83.  
 Stapfer, Edmond, *Jesus Christ Before His Ministry*, by F. A. CHRISTIE (*Review*), 754; *Jesus Christ During His Ministry*, do., 754.  
 State, *L' Idée de l' État*, by Henry Michel, by RICHARD HUDSON (*Review*), 148.  
*State Papers, Calendar of*, by W. Noel Sainsbury and Hon. J. W. Fortescue, by PHILIP A. BRUCE (*Review*), 530.  
 States-General, 38, 225, 226, 723.  
 Staunton, Sir George, 635, 636.  
 STEINER, BERNARD C., *Rev. Thomas Bray and his American Libraries*, 59.  
 Stephens, H. M., *History of the French Revolution*, 228.  
 STERRETT, J. R. S., *The Cities and Bishoprics of Phrygia*, by W. M. Ramsay (*Review*), 567.  
 Stephens, governor, of Albemarle, 660.  
 Stevens, Thaddeus, 463.  
 STEWART, GEORGE, *The Journal of Captain William Pote, Jr. (Review)*, 157.  
 Stith, President, quoted, 18.  
 Storrs, Dr. Richard S., 379.  
*Stray Studies*, by Green, 688.  
 Stubbs, *Select Charters*, 688.  
*Studi e Documenti di Storia e Diritto*, 56.  
 Stukeley, manor of, 218.  
 SULLIVAN, JAMES, *Marsiglio of Padua and William of Ockam*, 409-426, 593-610.  
 SULTE, BENJAMIN, *The Jesuit Relations and Allied Documents*, by Reuben G. Thwaites (*Review*), 527.  
*Summa de Planctu Ecclesiae*, by Alvarez Pelagius, 595.  
 Sumner, Charles, 468; *Letters of Richard Cobden to (Documents)*, 306.  
 Superior Court of Judicature, Massachusetts, 229, 235, 239.  
 Supreme Executive Council, Penn., 262.  
 Surveyor-General of His Majesty's Woods, 230.  
 Sythale, 221.  
 Szlachta, 38.  
 Tacitus, *History*, by A. W. Quill (*Review*), 568.  
 Talavera, Hernando de, 616.  
 Tamerlane, 433.  
 Tannenburg, battle of, 35.  
 TARBELL, F. B., *The Mycenaean Age*, by Chrestos Tsountas and J. Irving Manatt (*Review*), 706.

- Taxation and Taxes in the United States under the Internal Revenue System*, by Frederick C. Howe, by A. C. MILLER (Review), 743.
- Taylor, Francis S., 247, 249.
- Taylor, H. O., *Ancient Ideals* (Review), 752.
- Taylor, Robert, 248.
- Temple, Sir William, 445.
- Tendilla, Count of, 617.
- TERRY, BENJAMIN S., *Joan of Arc*, by Francis C. Lowell (Review), 131.
- Tertia*, 5, 6, 8.
- Terzo*, 5.
- Te-tsung, Emperor, 430.
- Texas State Historical Association, 786.
- Thacher, Josiah, 100.
- Thalheim, 609.
- Thatcher, Oliver J., and Ferdinand Schwill, *Europe in the Middle Age*, by CHARLES H. HASKINS (Review) 511.
- Thayer, James Bradley, *A Preliminary Treatise on Evidence at the Common Law*, Part I., by CHARLES L. WELLS (Review), 341.
- Themistocles, 429.
- Thomas of Strassburg, 597.
- Thomasseo, *Dictionary*, 10.
- Thurstan, Archbishop, 688.
- Thwaites, Reuben Gold, *The Jesuit Relations and Allied Documents*, by BENJAMINE SULTE (Review), 527.
- TILTON, W. F., *Armada Española desde la Unión de los Reinos de Castilla y de León*, by Cesario Fernandez Duro, Vol. I. (Review), 344; *Lord Burghley on Spanish Invasion*, 93; *Queen Elizabeth*, by Mandell Creighton, (Review), 346.
- Timagoras, 429.
- Titzing, 633.
- Toner, Dr. J. M., deceased, 202.
- Tooker, William W., *John Eliot's First Indian Teacher and Interpreter, Cockenoe-de-Long Island* (Review), 376.
- Tories, 15.
- Torquemada, archdeacon, 615.
- Tothill jail, 13.
- Toulmin, Harry, 700, 701, 703.
- Town Records of Great Britain*, by CHARLES GROSS (Bibliographical), 191.
- TOY, C. H., *History, Prophecy, and the Monuments*, by James Frederick McCurdy, Vol. II. (Review), 327.
- Tractatus Consultationis super Divortio Matrimonii*, by Marsiglio, 413.
- Trade, Committee of 23.
- Transliteration (The) of Russian Names*, by JEROME BARKER LANDFIELD (Bibliographical), 766.
- Transportation, 17, 19, 27, 28, 31.
- Trechsel, 608.
- TRENT, W. P., *Southern Quakers and Slavery*, by Stephen B. Weeks (Review), 178.
- Trent, William P., *Southern Statesmen of the Old Régime*, by DAVID F. HOUSTON (Review), 749.
- Trent, Council of, 48, 53, 54, 602; *Lectures on the Council of Trent*, by James Anthony Froude, by FRANK HUGH FOSTER (Review), 135.
- Trent Affair (The)*, by Thomas L. Harris (Review), 366.
- Tribunal of the Rota, archives of, 41.
- Trinity College, Cambridge, 26.
- Triple Alliance, 36.
- Trithemius, 608.
- Trumbull, Lyman, 280, 465, 468.
- Tschakert, *Peter von Ailli*, 593.
- Tsountas, Chrestos, and J. Irving Manatt, *The Mycenaean Age*, by F. B. TARBELL (Review), 706.
- Tseng Kou-fau, 640.
- Tsung-li Yamên, 640, 642.
- Tufton, John and Robert, 656.
- TURNER, FREDERICK J., Introduction to *Carondelet on the Defence of Louisiana*, (Documents), 474; *The Winning of the West*, Vol. IV., by Theodore Roosevelt (Review), 171.
- Turner, Sir James, 8.
- Tung-Chih, Emperor, 639, 642.
- Tuttle, Herbert, *History of Prussia under Frederick the Great, 1756-1757*, by ULYSSES G. WEATHERLY (Review), 145.
- Twiss, Sir Travers, deceased, 377.
- Tyler, Professor Moses Coit, *The Literary History of the American Revolution*, Vol. I., by PAUL LEICESTER FORD (Review), 738.
- Ultricuria, Nicolas of, 607.
- United States (The) of America*, by Edward Channing, by A. C. McLAUGHLIN (Review), 161.
- United States, *Constitutional History of the United States*, by George Ticknor Curtis, by D. H. CHAMBERLAIN (Review), 549; *The History of the Last*

- Quarter-Century in the United States*, by E. Benjamin Andrews, by ALBERT SHAW (Review), 561; *A History of Political Parties in the United States*, by J. P. Gordy, (Review), 574; *A List of Civil Lists, for American History (Bibliographical)*, 758; *The Literary History of the American Revolution*, by Moses Coit Tyler, Vol. I., by PAUL LEICESTER FORD (Review), 738.
- Unity, 13.
- Upham, William P., 229.
- Upton, Charles H., 281, 291, 292.
- Upwood, manor of, 221.
- Urban IV., 46.
- Valle Venafranca, Giovanbattista della, 4.
- Van Braam, 633.
- Vandal, Albert, *Napoléon et Alexandre Ier*, Tome III., by HENRY E. BOURNE (Review), 351.
- Vatican Archives (The)*, by CHARLES H. HASKINS, 40.
- Vatican Council, 106.
- Vega, Garcilasso de la, 620.
- Verplanck, Gulian, 246.
- Vessels, *Cesar*, 25; *Dove*, 22; *Eagle*, 24; *Greyhound*, 30; *Jenny*, 28; *John ana Sarah*, 13; *Myrtilda*, 32; *Unity*, 13.
- Viatka, 39.
- Villafáfila, agreement of, 619.
- Villata, 215.
- Villainage in England*, by Professor Vinogradoff, 220.
- Villani, *Historia Univ.*, 593.
- Villeins, 214, 215.
- Vinogradoff, Professor, *Villainage in England*, 220.
- VINCENT, J. M., *Woman under Monasticism*, by Lina Eckenstein, 120.
- Vincent Laureo, by Professor Wierzbowski, 54.
- Viner, *Abridgment*, quoted, 645.
- Virgatarii*, 214.
- Virginia, 18, 447, 454, 671, 683; *A List of Civil Lists (Bibliographical)*, 764.
- Virginia Carolorum*, by Neill, quoted, 17.
- Vladykin, 632.
- Voltaire, 34, 78, 82, 84.
- Voorhees, Daniel, 280, 289.
- Voter, *Evolution of the American Voter*, by JAMES SCHOULER, 665.
- Wade, B. F., 465.
- Waldo, Samuel, 230.
- Walid, Calif, 429.
- Walker, Augustus, 13.
- Walker, Benjamin, 245.
- Walker, General Francis A., deceased, 577.
- WALKER, WILLISTON, *Philip Augustus*, by W. H. Hutton (Review), 370; *Puritanism in the Old World and in the New*, by Rev. J. Gregory (Review), 350.
- Walpole, *Kingdom of Ireland*, quoted, 19.
- Walpole, *Memoirs of George III.*, 227.
- Walsh, Robert, 683.
- WALTON, JOS. S., *Nominating Conventions in Pennsylvania*, 262.
- War of 1812, *Naval Actions of the War of 1812*, by James Barnes, by A. T. MACHAN (Review), 574.
- Ward, John E., 638, 639.
- Warmia, 88.
- War of Austrian Succession, 77, 78.
- War of Polish Succession, 77.
- War of Spanish Succession, 76.
- WARREN, JOSEPH P., *Introduction to Documents Relating to the Shays Rebellion*, 693.
- Warren, *Mercy*, by Alice Brown (Review), 573.
- Washington, George, 27, 98, 241, 242, 247, 254; *George Washington*, by Woodrow Wilson, by WILLIAM WIRT HENRY (Review), 539; *The True George Washington*, by Paul Leicester Ford, by WILLIAM WIRT HENRY (Review), 539; *Writings*, Ford ed., 294.
- Watson, James, 247.
- WEATHERLY, ULYSSES G., *History of Prussia under Frederic the Great*, by Herbert Tuttle (Review), 145.
- WEEDEN, WILLIAM B., *The Puritan in England and in New England*, by Ezra H. Byington (Review), 532; *The Bay Colony*, by William Dummer Northend (Review), 534.
- Week-work, 217.
- Weeks, Stephen B., *Southern Quakers and Slavery*, by W. P. TRENT (Review), 178.
- WEEKS, STEPHEN B., *The Suppression of the African Slave Trade to the United States of America*, by W. E. B. Du Bois (Review), 555.
- WELLS, CHARLES L., *A Preliminary Treatise on Evidence at the Common*

- Law*, Part I., by James Bradley Thayer (Review), 341.
- West (The), *The Winning of the West*, by Theodore Roosevelt, Vol. IV., by FREDERICK J. TURNER (Review), 171.
- West Florida and its Attempt on Mobile (Documents)*, 699.
- "West Indies," 20.
- West Virginia, 281, 282, 461.
- Whaley, 281, 292.
- Wharton, *State Trials*, 257.
- Whibley, Leonard, *Greek Oligarchies*, by G. W. BOTSFORD (Review), 369.
- Whipple, Joseph, 254, 255.
- White, Andrew Dickson, *A History of the Warfare of Science with Theology in Christendom* (Review), 107.
- White Servitude in the Colony of Virginia*, by Ballagh, 13.
- Whittingham Memorial Library, 75.
- Wiclif, 426, 607, 610; *De Civili Domino*, 599.
- Wierzbowski, Professor, *Vincent Laureo*, 55.
- Willard, Colonel Josiah, 21, 22.
- William I., 644.
- William III., 19, 162.
- William and Mary College Quarterly*, 59, 395, 589.
- Williamson, James J., *Mosby's Rangers*, by THEODORE A. DODGE (Review), 367.
- Williamson, Ralph, 15.
- Willis, *History of Portland*, quoted, 232, 238.
- Wilson, Sarah, 29.
- Wilson, Woodrow, *George Washington*, by WILLIAM WIRT HENRY (Review), 539.
- Winthrop vs. Lechmere, case of, 229.
- Wolcott, Oliver, 249, 250, 254, 258.
- Woman under Monasticism*, by Lina Eckenstein, by J. M. VINCENT (Review), 122.
- Wood, Anthony, quoted, 23.
- WOOD, HENRY, *Social Forces in German Literature*, by Kuno Francke (Review), 336.
- WRONG, GEORGE M., *Acadia*, by an Acadian (Edouard Richard) (Review), 159.
- Wrong, Professor George M., *Review of Historical Publications relating to Canada*, Vol. I. (Review), 575.
- Wudobene*, 221.
- Württemberg Historical Commission, 51.
- Xerxes, 428.
- Ximenes, Cardinal, 616, 622, 625, 34.
- XYZ Mission, 294.
- Year and day, 689.
- York, Duke of, 656, 660.
- Yuan-tsung, emperor, 429.
- Yung-lo, emperor, 433.
- Zarate, Ruiz de, 613.
- Zevort, E., *Histoire de la Troisième République*, by C. F. A. CURRIER (Review), 572, 754.
- Zoemerren, Henry of, *Epistoma primæ partis Dialogi de Hæreticis*, 608.
- Zurita, *Hist. del Rey Don Hernando*, 614.